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POLITY 3.0 PDF IN English

MAKING OF INDIAN CONSTITUTION



- Constitution: It lays out certain ideals that form the basis of the kind of country

→ India's Constitution: Partly rigid; partly flexible

- While all democratic countries are likely to have a Constitution, it is not necessary that all countries that have a Constitution are democratic

- Origin of Constitution from the USA: 1787
- Independence of USA: 4th July 1776

Constituent Assembly (CA)

- 1934: M N Roy first demanded for CA (he founded the CPI → Communist Party of India)
- 1935: Demand by Congress

Offers from Britain

- * Reason: Ongoing World War II

1. August Offer: 1940
2. Cripps Proposal: 1942
3. Wavell Plan: 1945
4. Cabinet Mission Plan: 1946



3 British cabinet members

- a. Pethick-Lawrence (chairman)
- b. Stafford Cripps
- c. A. V. Alexander

- * Only Cabinet Mission plan was accepted by the Congress and the Muslim league, hence Constituent Assembly was formed according to it

Reasons for Rejection of Former ones

- Congress demanded Purna Swaraj, but they offered the Dominion Status

Trust with Destiny

In his famous speech "Trust with Destiny" delivered on 14th Aug 1947 before Constituent Assembly, Nehru referred Gandhiji, as "The ambition of the greatest man of our generation has been to wipe every tear from every eye"

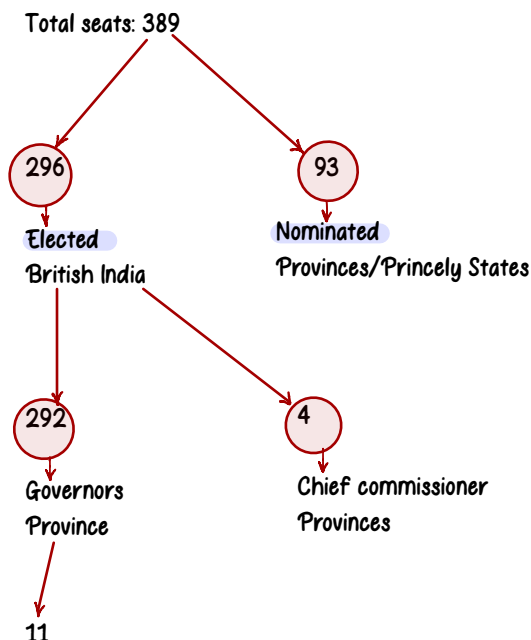
* Early draft of Indian Constitution: 1928 by All Parties Conference chaired by Motilal Nehru → Nehru Report

Extras:

- Communist: source/means of production controlled by govt.
ex: China
- Oligarchic: govt. by few
ex: China, Russia
- Monarchic: govt. by single person specifically King/monarch
ex: North Korea
- Totalitarian: total control over lives of citizens by whomever is ruling

- Dominion Status: It is a status given to certain countries that allowed them to be self-governing while still remaining part of British empire. The term "Dominion" means "that which is mastered or ruled"

Provisions of Cabinet Mission Plan



Interim Government

- President of the Executive Council (Viceroy and Governor-General of India: Viscount Wavell (till Feb 1947); Lord Mountbatten (from Feb 1947)
- Commander-in-Chief: Sir Claude Auchinleck
- Vice President, also in charge of External Affairs and Commonwealth Relations: Jawaharlal Nehru (INC)
- Home Affairs, Information and Broadcasting: Sardar Vallabhbhai Patel (INC)
- Agriculture and Food: Rajendra Prasad (INC)
- Commerce: Ibrahim Ismail Chundrigar (ML)
- Defence: Baldev Singh (INC)
- Finance: Liaquat Ali Khan (ML)
- Education and Arts: C. Rajagopalachari (INC)
- Health: Ghazanfar Ali Khan (ML)
- Labour: Jagjivan Ram (INC)
- Law: Jogendra Nath Mandal (ML)
- Railways and Communication, Post and Air: Abdur Rab Nishtar (ML)

- Seats allocated to each British province, where to be divided among three principal communities:
 - Muslim
 - Sikh
 - General
- One seat was to be allotted for 1 million population
- Method of election (Indirect Elections): Proportional Representation + Single Transferable Vote

Elections held in: July–August 1946

Results

- Majority: Congress (INC): 208 seats
- Muslim League: 73 seats
- Independent: 15 seats
- After boycott of Muslim League Remaining seats: 299
 - ↓
 - After partition

Ceremony that marks the end of Republic Day Celebration:

- Beating Retreat Ceremony
- Independence Day: PM hoist Indian flag in Red Fort
- Republic Day: President unfurls the flag at Kartavya Path

→ 22nd Jan 1947: Objective resolution adopted by CA



→ 13 Dec 1946: Presented by J L Nehru

Committees formed

→ Major: 8

→ Minor: 13

The Drafting Committee took

→ 141 days to prepare its draft

Drafting Committee (set up on: 29th Aug 1947)

Total members: 7

→ Chairman: B R Ambedkar (also known as "Modern Manu or Modern Man")

→ Alladi Krishnaswami Ayyar

→ N Gopalaswami Ayyangar

→ Muhammad Saddullah

→ B. L. Mitter (replaced by N Madhav Rau)

→ D P Khaitan (replaced by T T Krishnamachari)

→ K M Munshi

Drafts of the Constitution

• 1st draft was published on: 21 Feb 1948

(8 months to people of India)

• 4 Nov 1948: B R Ambedkar introduced the final draft before Constituent Assembly

• 1st reading: 5 days

• 2nd reading: 15 Nov 1948–17 Oct 1949

• 3rd reading: Completed on 26 Nov 1949

• Total sessions held: 11 sessions for 165 days

• Total time: 2 yrs 11 months 17/18 days → Constitution was made

• Money: 64 lakhs (to frame the Constitution)

Important Sessions

• 1st Session: 9–23rd Dec 1946 → 211 members

• 10th Session: 6–17th Oct 1949

• 11th Session: 14–26th Nov 1949 (also the last session)

• Final Draft: presented by B R Ambedkar before the public on 4 Nov 1948

→ From Bengal Constituency

→ Constitution was adopted: 26 Nov 1949 (also celebrated as "Constitution Day")

→ Constitution enforced on: 26 Jan 1950

→ Some provisions were imposed on 26 Nov 1949

→ Citizenship (Art 5, 6, 7, 8, 9)

→ Elections

→ Provisional Parliament

• Schedules (at present): 12

• Parts (at present): 25

• 395 Art + 8 Schedules + 22 Parts + Preamble

By Rojgar Revision

Functions of Constituent Assembly

* Mahatma Gandhi was not a part of C.A

2 major functions

Law-making body (to legislate)

- G V Mavalankar (first speaker of Lok Sabha)
- Vice President: T T Krishnamachari, H C Mukherjee

To Legislate
(To make laws)

Constitution maker

- President: Rajendra Prasad (after elections)
- Temporary President: Sachchidananda Sinha (before elections)

Functioned as first parliament of India

Other functions

1. Adopted National Flag: 22 July 1947
2. National Anthem: by Rabindranath Tagore → "Jana Gana Mana"
3. National Song: by Bankim Chatterjee → "Vande Mataram"
4. Commonwealth Ratification: May 1949

24 Jan 1950

- Legal/Constitutional Advisor: B N Rao
- Chief Draftsman: S N Mukherjee
- No. of CA members who signed constitution: 284 (had 15 female members)

Signed on

- Last sitting of CA: 24 Jan 1950
- 1st President of India (on 26 Jan 1950): Dr Rajendra Prasad

Handwritten Constitution by (calligrapher)

- English: Prem Behari Narain Raizada
- Hindi: Vasant Krishan Vaidya
- Decorated by:
 - Nand Lal Bose
 - Beohar Ram Manohar

Extras

Important female members of CA

- Raj Kumari Amritkaur (1st health minister)
- Sucheta Kriplani (1st female CM of UP)
- Sarojini Naidu (1st Governor of Uttar Pradesh state)

→ India's Constitution is the largest written Constitution → Symbol of Indian Constitution: Elephant

- **Language of Constitution:** English

Committee of CA of India

Major Committee

MAJOR COMMITTEES OF CONSTITUENT ASSEMBLY		
01	Union Powers Committee	Jawaharlal Nehru
02	Union Constitution Committee	Jawaharlal Nehru
03	States Committee (Committee for Negotiating with States)	Jawaharlal Nehru
04	Provincial Constitution Committee	Sardar Patel
05	Advisory Committee on Fundamental Rights, Minorities and Tribal and Excluded Areas	Sardar Patel
• Fundamental Rights Sub-Committee – J.B. Kripalani • Minorities Sub-Committee – H.C. Mukherjee • North-East Frontier Tribal Areas and Assam Excluded & Partially Excluded Areas Sub-Committee – Gopinath Bardoloi • Excluded and Partially Excluded Areas (Other than those in Assam) Sub-Committee – A.V. Thakkar • North-West Frontier Tribal Areas Sub-Committee		
06	Drafting Committee	Dr. B.R. Ambedkar
07	Rules of Procedure Committee	Dr. Rajendra Prasad
08	Steering Committee	Dr. Rajendra Prasad

Minor Committee

MINOR COMMITTEES OF CONSTITUENT ASSEMBLY

Finance and Staff Committee	Dr. Rajendra Prasad
Ad-hoc Committee on the National Flag	Dr. Rajendra Prasad
Credentials Committee	Alladi Krishnaswami Ayyar
House Committee	B. Pattabhi Sitaramayya
Committee on Chief Commissioners' Provinces	B. Pattabhi Sitaramayya
Order of Business Committee	Dr. K.M. Munshi
Committee on the Functions of the Constituent Assembly	G.V. Mavalankar
Ad-hoc Committee on the Supreme Court	S. Varadachari (Not an Assembly Member)
Ad-hoc Committee on Citizenship	S. Varadachari (Not an Assembly Member)
Expert Committee on the Financial Provisions of the Union Constitution	Nalini Ranjan Sarkar (Not an Assembly Member)
Linguistic Provinces Commission	S.K. Dar (Not an Assembly Member)
Special Committee to Examine the Draft Constitution	Jawaharlal Nehru
Press Gallery Committee	Usha Nath Sen

- **Linguistic Provinces Commission:** S. K. Dhar
- **Ad Hoc Committee (Flag):** Rajendra Prasad

- **Capitalist State:** Industrialists (where the government controls the economy)
- **Plutocratic:** Government by rich people
- **Mixed Economy:** An economic system that combines elements of a market economy and a planned economy. **Example:** India

SALIENT FEATURES OF CONSTITUTION



* **Indian Constitution:** Longiest written Constitution in the world

Written Constitution

- Compiled and structured in systematic form by a few members
- Formally constituted
- Not easy to amend
- Ex: India

Unwritten Constitution

- Not structured
- Not formally constituted
- Easy to amend
- Ex: UK

- Originally (26th Nov 1949) Constitution contained: 395 Articles, 22 Parts, 8 Schedules
- Presently it contains: 470 Articles, 25 Parts, 12 Schedules
- Part 7 has been deleted and new Parts: IVA, IXA, IXB, and XIV A has been added

Federalism

- This refers to the existence of more than one level of government in the country
- Three tier of government exists in India
 - Union/Centre
 - ↓
 - States
 - ↓
 - Local Bodies
- Under federalism, the states are not merely agents of federal government, but draw their authority from Constitution as well

• **Amendment:** a formal change to law, contract, constitution, or other legal document

India has a:

- Federation with a unitary bias
- Federation with a strong Centre

Federal Features

- Written Constitution
- Supremacy of the Constitution
- Rigidity of Constitution
- Independence of Judiciary
- Bicameralism
- Dual Government

Unitary Features

- Single Constitution
- Single Citizenship
- Integrated Judiciary
- All India Services
- Emergency provisions
- Appointment of Governors by Centre

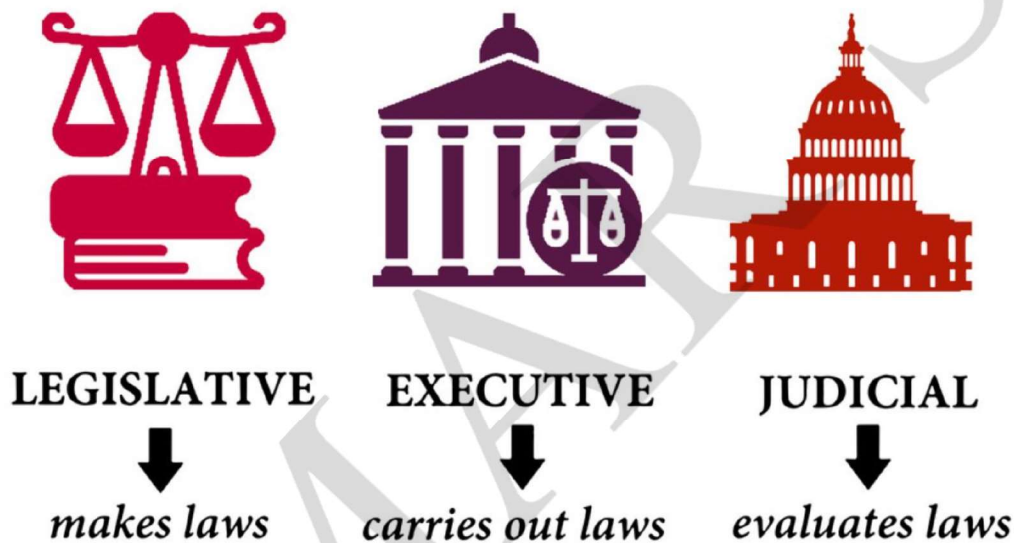
Comments on Indian Federalism

- **Quasi-Federal:** By K. C. Wheare
- **Cooperative Federalism:** By Granville Austin
- **Bargaining Federalism:** By Morris Jones

* India has a Parliamentary form of Government

Separation of Powers between

The 3 Branches of Government



Fundamental Rights

- The section of Fundamental Rights has often been referred to as "conscience" of the Indian Constitution
- Fundamental Rights, therefore, protect citizens against the arbitrary and absolute exercise of power by the State

Secularism

- A secular state is one in which the State does not officially promote any one religion as the State religion

Two types of Secularism

- **Negative:** State is not involved in religious matter → Ex: USA
- **Positive:** State is involved in religious matter → Ex: India

• The idea of our Constitution is borrowed from many sources

Schedules of Indian Constitution

- **Schedule 1:** Names of States and UTs and their territorial jurisdiction
- **Schedule 2:** Provisions relating to emoluments and allowances → President, VP, Governor, Speaker + Deputy Speaker (LS + LA), Chairman + Deputy Chairman (RS + LC), Judges (SC + HC), CAG
- **Schedule 3:** Oaths and affirmation (Union + State) → Ministers, MPs, MLA, Judges, CAG
- **Schedule 4:** Allocation of seats in Rajya Sabha
- **Schedule 5:** Provisions relating to administration of scheduled areas and scheduled tribes → Andhra Pradesh, Chhattisgarh, Maharashtra, Jharkhand, Madhya Pradesh, Gujarat, Himachal Pradesh, Odisha, Rajasthan, Telangana

* **TRICK:** ATM Money
[ATM without money
(manipur)]

• President can declare any area as scheduled area after consulting Governor

- **Schedule 6:** Provisions relating to administration of tribal areas → Assam, Tripura, Meghalaya, Mizoram

Tribal population more than 50%

They can set up their own District or Regional Autonomous Council

- **Schedule 7:** 3 lists containing subject in which Union and States can make laws (Federal Provisions) → Union list, State list, Concurrent list
- **Schedule 8:** Official languages

8 Schedule: Official languages

• **Originally:** 14

• **At present:** 22

• **21st CA:** Sindhi added (1967)

• **71st CA:** Konkani, Manipuri, Nepali (1992)

• **92nd CA:** Bodo, Dogri, Maithili, Santhali (2003)

• **96th CA:** Odia → This CA changed the spelling of "Oriya" to "Odia" language

TRICK: BDSM

Classical Languages

TRICK

- | | |
|--------------------------|----------------------|
| • Tu: Tamil | +
5 new languages |
| • Shuru: Sanskrit | |
| • Toh: Telugu | |
| • Kar: Kannada | |
| • Main: Malayalam | |
| • Aariya: Odia | Bengali |

Pali
Prakrit
Marathi
Assamese
Bengali

- **Schedule 9:** Provisions related to land reforms and Zamindari system → **1st CA:** 1951
- **Schedule 10:** Provisions relating to disqualification of MPs and MLAs on ground of defection → **52nd CA:** 1985
- **Schedule 11:** Provisions relating to Panchayat → **73rd CA:** 1992, 29 functional matters
- **Schedule 12:** Provisions relating to municipalities → **74th CA:** 1992, 18 functional matters

3 Lists

- **Union List Subjects:** Defence, arms and ammunition, atomic energy, citizenship, Airways, inter-state trade and commerce, banking, insurance, foreign affairs, regulation of labour and mines, Census
- **State List Subjects:** Public order, local government, health, pilgrimage, liquor, agriculture, fisheries, betting and gambling
- **Concurrent List Subjects:** Marriage and divorce, insolvency and bankruptcy, trade and labour disputes, electricity, education, weights and measure

Both Union and State can make laws

Residuary List

- These subjects are not included in Union/ State/Concurrent list
- Parliament has lawmaking power

Subjects Transferred through 42nd Amendment (State list to Concurrent list)

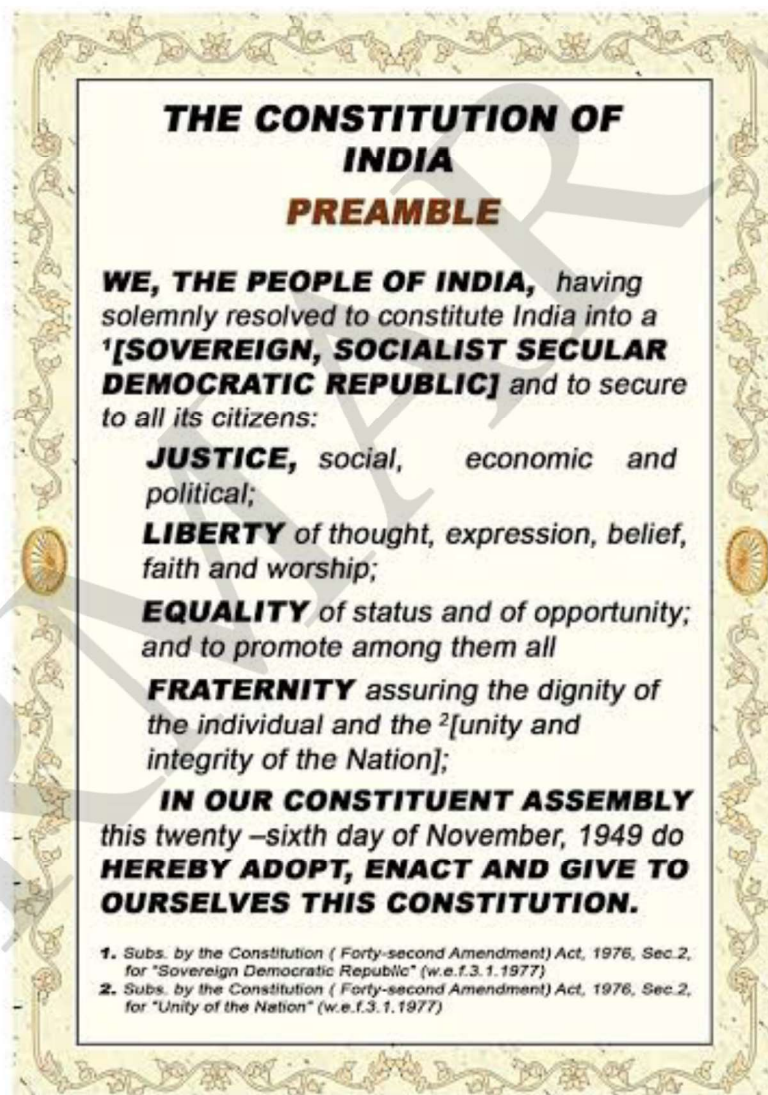
- Education
- Forests
- Weights and Measures
- Protection of wild animals and birds
- Administration of justice

TRICK (for Schedules)

- **T:** Territory
- **E:** Emoluments
- **A:** Affirmation and oath
- **R:** Rajya Sabha
- **S:** Scheduled areas
- **O:** Other scheduled areas
- **F:** Federal provision
- **O:** Official languages
- **L:** Land provision
- **D:** Defection
- **P:** Panchayat
- **M:** Municipality

✳ TEARS OF OLD PM

PREAMBLE and PART I & 2 OF CONSTITUTION



Preamble

- It is an **introductory statement** in a Constitution, which states the **reasons and guiding values** of the Constitution
- Tells us about the **philosophy** of the Constitution
- It was **made after the Constitution was completed**
- A modified version of **Objective Resolution**
 - Introduced in: Dec 13, 1946
 - Adopted in: Jan 22, 1947

Comments on Preamble

- **ID Card of Constitution:** N A Palkhivala
- **Political Horoscope of Constitution:** K M Munshi

THE CONSTITUTION OF INDIA

PREAMBLE

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a '[SOVEREIGN, SOCIALIST SECULAR DEMOCRATIC REPUBLIC] and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the ²[unity and integrity of the Nation];

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949 do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**

1. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Sovereign Democratic Republic" (w.e.f.3.1.1977)

2. Subs. by the Constitution (Forty-second Amendment) Act, 1976, Sec.2, for "Unity of the Nation" (w.e.f.3.1.1977)

भारत का संविधान

उद्देशिका

हम, भारत के लोग, भारत को एक संपूर्ण प्रभुत्व-संपन्न, समाजवादी, पंथ-निरपेक्ष, लोकतन्त्रात्मक गणराज्य बनाने के लिए तथा उसके समस्त नागरिकों को:

सामाजिक, आर्थिक और राजनैतिक न्याय,

विचार, अभिव्यक्ति, विश्वास, धर्म और उपासना की स्वतंत्रता,

प्रतिष्ठा और अवसर की समता प्राप्त कराने के लिए,

तथा उन सब में व्यक्ति की गरिमा और राष्ट्र की एकता और अखंडता सुनिश्चित करने वाली बंधुता बढ़ाने के लिए

दृढ़संकल्प होकर अपनी इस संविधान सभा में आज तारीख 26 नवंबर, 1949 ई. (मिति मार्गशीर्ष शुक्ला सप्तमी, संवत् दो हजार छह विक्रमी) को एतद्वारा इस संविधान को अंगीकृत, अधिनियमित और आत्मार्पित करते हैं।

Nature — {

Objectives — {

Date of adoption — {

"We the People of India....." → Source of power of Constitution

- The constitution has been drawn up and enacted by the people through their representatives, and not handed down to them by a king or any outside powers

Ingredients

Sovereign

- People have supreme right to make decisions on internal as well as external matters. No external power can dictate the government of India

Socialist

- Wealth is generated socially and should be shared equally by society. Government should regulate the ownership of land and industry to reduce socio-economic inequalities

Example: Russia

- Capitalistic: USA
- Mixed: India

Secular

- Citizens have complete freedom to follow any religion. But there is no official religion. Government treats all religious beliefs and practices with equal respect

Democratic

- A form of government where people enjoy equal political rights, elect their rulers and hold them accountable. The government is run according to some basic rules

Govt Of
By The people
For

* The UK is not a Republic State

Republic

- The head of the state is an elected person and not a hereditary position

Justice

- Citizens cannot be discriminated on the grounds of caste, religion, and gender. Social inequalities have to be reduced. Government should work for the welfare of all, especially of the disadvantage groups

Liberty

- There are no unreasonable restrictions on a citizen in what they think, how they wish to express their thoughts and the way they wish to follow up their thoughts in action

Equality

- All are equal before the law. The traditional social inequalities have to be ended. The government should ensure equal opportunities for all

Fraternity

- All of us should behave as if we are members of the same family. No one should treat a fellow citizen as inferior

Is Preamble a Part of Constitution and is it Amendable?

- **Berubari Union Case: 1960** → No, according to above question
- **Keshavnanda Bharti Case: 1973** → Yes according to above question



Preamble has been amended only once:

- **42nd CA, 1976**
- Also known as "Mini Constitution of India"
- It added terms like: **Integrity, Socialist, Secular** (TRICK: ISS/SIS)

*The terms "Liberty, Equality, Fraternity and Republic" are taken from France and the ideals of Social, Economic and Political Justice taken from Russia

Enforceability of Preamble

- It is not enforceable in Court of Law
- It is neither a source of Power nor restriction to the legislature, but it can be considered as an aid to the legal interpretation of the Constitution

Part I of Constitution

- Union and it's Territory → Art 1-4

Article 1: Name and Territory of the Union

- (1) India, that is Bharat, shall be a Union of States
- (2) The States and the territories thereof shall be as specified in the First Schedule
- (3) The territory of India shall comprise
 - (a) the territories of the States;
 - (b) the Union territories specified in the First Schedule; and
 - (c) such other territories as may be acquired

Type of Polity

- Union of States: No agreement between the Federating units. They do not have a right to secede from the Union
- * India is Indestructible Union with Destructible state
- Federation of State: A new state that is formed through a treaty or an agreement between various units
- * US is an Indestructible Union with Indestructible state

Article 2: Admission or establishment of new States

2(1) Parliament may by law admit into the Union, or establish, new States on such terms and conditions as it thinks fit

2 (A) Sikkim to be associated with the Union.] Rep. by the Constitution (36th Amendment) Act, 1975

Article 3: Formation of new States and alteration of areas, boundaries, or names of existing States

- (a) form a new State by separation of territory from any State or by uniting two or more States or parts of States or by uniting any territory to a part of any State;
- (b) increase the area of any State;
- (c) diminish the area of any State;
- (d) alter the boundaries of any State;
- (e) alter the name of any State

* NOTE: Provided that no Bill for the purpose shall be introduced in either House of Parliament except on the recommendation of the President and unless, where the proposal contained in the Bill affects the area, boundaries or name of any of the States, the Bill has been referred by the President to the Legislature of that State for expressing its views

→ In 5th CA

Article 4: Laws made under Article 2 and 3 to provide for the amendment of first and fourth Schedules

(2) No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of Article 368

↓
Through Simple Majority

- Indian territory is to be seceded, then amendment is needed
- 100th CA (2014): India-Bangladesh boundary agreement

Integration and Formation of States

Formation of States on Linguistics

- **1947**: 562 Princely States formed
 - **J&K**: Instrument of accession
 - **Junagarh**: Referendum
 - **Hyderabad**: Police accession → Operation POLO (Sept 1948)
- } 3
- **1950**: 4 fold Classification → Part A, Part B, Part C, Part D

Committees Formed on Linguistic Basis

- (1) Dhar Committee (1948) → **Chairman**: S. K. Dhar
 - State should be formed on the basis of administrative convenience and not on linguistic basis
- (2) JVP Committee → **Members**: J L Nehru, Vallabhbhai Patel, Pattabhi Sitaramayya
 - Studied the recommendations of Dhar commissions and to re-evaluated the possibility of forming linguistic provinces
- (3) Fazl Ali Commission/State Reorganisation Commission (SRC) → **Members**: Justice Fazal Ali, K. M. Panikkar, and H. N. Kunzru
 - It rejected the theory of One language One state, but accepted the formation of state on linguistic basis
 - State Reorganisation Act, 1956** → Part A, B, C, D ✗

- * **1952**: Death of **Potti Sriramulu** in Andhra Pradesh
 - Fast unto death
 - After his death: 1st linguistic state of India formed was Andhra Pradesh in **1953**

↓
14 states + 6 UTs (created on: 1st Nov 1956)

Formation of States

TRICK: AAM GUNAH HAI MAIM TUSSI GAO AUR MOJ LO
AAM

- **A**: Andhra Pradesh → Fully fledged state on 1 Nov 1956
- **M**: Maharashtra → 1960

GUNAH

- **G**: Gujarat → 1960
- **NA**: Nagaland → 1963

- **H**: Haryana → 1966

HAI

- **HAI**: Himachal Pradesh → 1971

MAIM

- **MAI**: Meghalaya → 1972
- **M**: Manipur → 1972

TUSSI

- **TU:** Tripura → 1972
- **SSI:** Sikkim → 1975

GAO

- **Goa:** 1987 (UT) → 56th CA (statehood)

- **AUR:** Arunachal Pradesh → 1987

- **MOJ LO:** Mizoram → 1987

- **1960:** Bombay → Maharashtra
→ Gujarat

- **Sikkim (special case)**
- Earlier ruled by **Chogyal Dynasty**
- **Associate State:** Art 2A → 35th CA, 1974
- **Complete Statehood:** 36th CA, 1975

- **Goa:** 12th CA 1962 (UT) + Daman+Diu (UT) (Still an UT)

- **Operation Vijay 1961:** launched by Indian Gov to liberate Goa, Daman & Diu from Portuguese rule
- 56th CA 1987 → Statehood given

- **Dadra & Nagar Haveli:** 1961, 10th CA (UT) Now merged with Daman and Diu

- **Meghalaya created within Assam:** 22nd CA

- **Mizoram and Arunachal:** Created as a UT → Once part of NEFA (North-East Frontier Agency)

- **Chhattisgarh, Uttarakhand, Jharkhand:** 2000 (statehood)

- **Telangana:** 2014 (statehood)

Articles Related to Special Provisions for Some States at a Glance

NAM AASMA GK

↑
TRICK

Article No.	Subject-matter
371	Special provision with respect to the states of Maharashtra and Gujarat.
371 – A.	Special provision with respect to the state of Nagaland.
371 – B.	Special provision with respect to the state of Assam
371 – C.	Special provision with respect to the state of Manipur
371 – D.	Special provisions with respect to the state of Andhra Pradesh or the state of Telangana
371 – E.	Establishment of Central University in Andhra Pradesh
371 – F.	Special provisions with respect to the state of Sikkim
371 – G.	Special provision with respect to the state of Mizoram
371 – H.	Special provision with respect to the state of Arunachal Pradesh
371 – I.	Special provision with respect to the state of Goa
371 – J.	Special provisions with respect to the state of Karnataka

N: Nagaland

A: Assam

M: Manipur

A: Andhra Pradesh

A: Andhra University

S: Sikkim

M: Mizoram

A: Arunachal Pradesh

G: Goa

K: Karnataka

Part II of Constitution

→ Citizenship → Art 5-11

→ Union list

- Born in India
- Either of the parents born in India
- Ordinary resident for at least 5 years

- Article 5- It provided for citizenship on commencement of the Constitution
- Article 6- It provided rights of citizenship of certain persons who have migrated to India from Pakistan
- Article 7- Provided Rights of citizenship of certain migrants to Pakistan
- Article 8- Provided Rights of citizenship of certain persons of Indian origin residing outside India
- Article 9- Provided that if any person voluntarily acquired the citizenship of a foreign State will no longer be a citizen of India
- Article 10- Continuance of rights of citizenship
- Article 11- Parliament to regulate the right of citizenship by law

↓
Dual citizenship not allowed

* Single citizenship: Taken from UK (Britain)

Citizenship

- Before the commencement of Constitution
- 26 Jan 1950 → Art 5-8

- After 26 Jan 1950
- Citizenship Act 1955

Citizenship Act 1955

Acquire Citizenship through

- By birth
- By decent
- By registration → 7 years residing in India
- By naturalisation → not of India (12 years of residing in India)
- By incorporating a territory

↓
Should also know one Indian language mentioned in Schedule 8

Can lose Citizenship through

- Renunciation (by own will)
- Termination (voluntarily acquired citizenship of other country without informing)
- Deprivation (document, malfunction, helping enemy country at war with India)

Recent Amendment in CA 1955

- CA 2019 (CAA): People from 6 communities → Hindu, Sikh, Parsi, Jain, Christian, Buddhist from 3 countries Bangladesh, Afghanistan, Pakistan can acquire citizenship through Naturalization → Has to live in India for 6 years
- ↓
Dispute caused, as Muslims were not included

FUNDAMENTAL RIGHTS



Part III: Fundamental Rights (FRs)

- Art: 12-35
- Inspired and borrowed from USA → Bill of Rights
- "Magna Carta" of UK → The first written document relating to fundamental rights of citizen

Part III: is described as Magna Carta of India

Sailent Features of Fundamental Rights

- FRs are not absolute but qualified (very limited)
- FRs are not sacrosanct* (are not permanent)
- FRs are justiciable in nature

Other Rights

- Protected and enforced by ordinary law
- Ordinary rights can be changed by ordinary process of lawmaking

Fundamental Rights

- Protected and guaranteed by constitution of the country
- It can only be changed by amending the constitution (Art 368)

❖ None of the government body can act in order to violate FR's

Can be snatched during National Emergency and Martial Law (Art 352-360)

SIX FUNDAMENTAL RIGHTS IN INDIA



1 RIGHT TO EQUALITY

Right to equality (Article 14 to 18) prohibits the inequality on the basis of caste, religion, place of birth, race and gender. It ensures equal rights for all citizens.

Art 14-18



2 RIGHT TO FREEDOM

These rights (Article 19, 20, 21 A, 22) are freedom of speech, freedom of expression, freedom of movement throughout the territory of our country, freedom to practice any profession, freedom to reside in any part of the country. However, these rights have their own restrictions.

Art 19-22



3 RIGHT AGAINST EXPLOITATION

Right against Exploitation (Article 23 and 24) condemns human trafficking, child labor, forced labor making it an offense punishable by law.

Art 23-24



4 RIGHT TO FREEDOM OF RELIGION

(Article 25 to 28) It guarantees religious freedom and ensures secular states in India. All people have freedom of conscience and right to preach, practice and propagate any religion of their choice.

Art 25-28



5 CULTURAL AND EDUCATIONAL RIGHTS

(Article 29 and 30) Cultural Rights protects the rights of cultural, religious and linguistic minorities by enabling them to conserve their heritage and protecting them against discrimination. Educational rights ensure education for everyone irrespective of their caste, gender, religion, etc.

Art 29-30



6 RIGHT TO CONSTITUTIONAL REMEDIES

Right to constitutional remedies (Articles 32 to 35) empowers the citizens to move to a court of law in case of any denial of the fundamental rights.

Art 32

- FRs are termed as "Conscience of Constitution"
- They seek to implement political democracy

- Originally → 7 fundamental rights were present

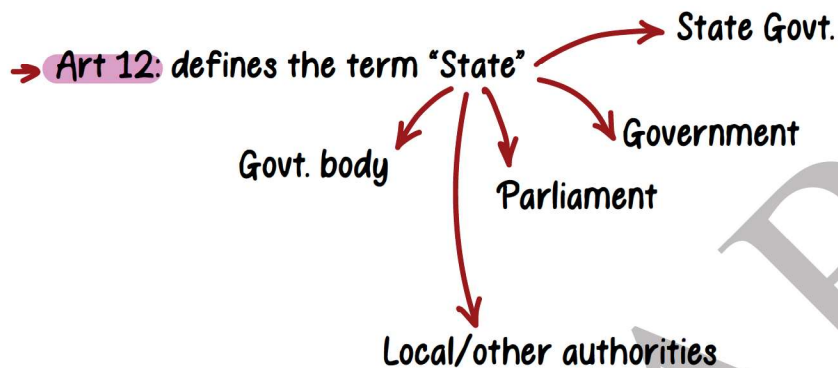


At present: 6 Fundamental Rights

- Right to Property has been removed (Art 31, Art 19(1) f)



- Removed from Part III by 44th CA (1978) → Then PM: Morarji Desai
- Presently in Part XII; is a Legal Right → Art 300A



Within the territory of India

- Art 13: any law, which is inconsistent or controversial with fundamental rights → court can declare null and void (by judiciary)



Includes ordinance, order, bye-law (temporary law), regulations

* Constitutional Amendment is not a law

- Exception: Keshavnanda Bharti Case

This is not written in Constitution



Basic structure if destroyed → Treated null and void

→ **Art 14: Right to Equality (Art 14-18)** → Also called Rule of Law (by A V Dicey)

→ **Equality before law** (negative concept) → concept taken from the UK

→ **Equal protection of law** (positive concept) → concept taken from USA

Like should be treated alike

Exceptions

- Presidents, MLAs/MPs, Governor, Foreign dignitaries cannot be arrested in Civil matters

Ex: subsidy by government to socially backward committee that is not applicable for normal janta

→ **Art 15: Equality to status/Right against discrimination**
Race/caste/sex/religion/place of birth only → Discrimination ✗

→ **Art 16: Equality to public employment**
Descent/race/caste/sex/religion/place of birth only → Discrimination ✗

→ **Art 16 (4): ProMotion and Reservation in appointment** (not a violation of Right to Equality)

Cases/Commissions

Kelkar Commission (1953)

- 1st backward class commission (Chairman: Kaka Kelkar)

Mandal Commission (1979)

- 2nd backward class commission
- Recommended reservation to OBC 27% during then government → V.P Singh

Indra Swahney Case (1992) → **Public Interest Litigation** filed by advocate Indra Swahney

- Reservation on Social basis not economic basis → Taken from USA Constitution
- No reservation in promotion
- The SC upheld the 27% reservation for OBCs in govt jobs but also set a 50% cap on total reservations (should not exceed more than this)
- Creamy-layer to be identified in OBC (to be not given reservations)

→ **Art 17: Abolition of untouchability**

→ **Art 18: Abolition of title**

- ↳ State cannot provide title
 - ex: Maharaja, Diwaan, etc
 - **Exception:** in case of education, military and excellency

→ **Art 19-22: Right to Freedom**

↳ Under reasonable restriction
a, b, c, d, e, ~~f~~ g

↳ Has been removed under 44th CA
1978

Art 19(1)

TRICK → SAAMRO

Hidden Rights under Art 19

- Right to Internet
- Right to Information
- ↳ Raj Narayan Vs state of UP

- **S:** speech and expression (cannot defame anyone) → (a)
- **A:** Assemble without arms (not destroy public public order) → (b)
- **A:** Form association/unions (no Khalistani association) or co-operative societies → (c) → Added through 97th CA
- **M:** move freely throughout the territory of India (prostitutes cannot move everywhere) → (d)
- **R:** reside anywhere (cannot reside in tribal areas) → (e)
- **O:** occupation/trade/profession (except drug/children trafficking) → (g)

*97 CA → 19 1(c): Right to form cooperative societies

Art 19(2)

Reasonable restrictions can be imposed in interests of

- Public order, Decency or morality, etc

I feel that many of these fundamental rights have been framed from the point of view of a police constable... you will find that very minimum rights have been conceded and are almost invariably followed by a proviso. Almost every article is followed by a proviso which takes away the right almost completely

~Somnath Lahiri



Article 19 in The Constitution Of India 1949

19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right

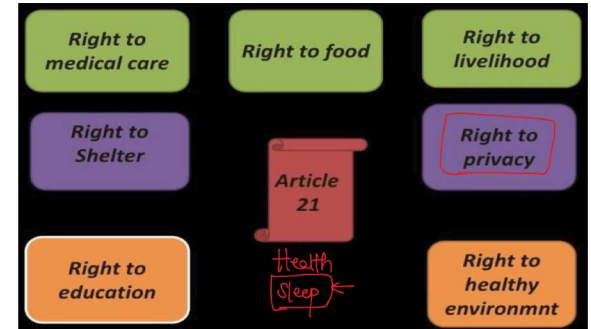
- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and
- (f) omitted
- (g) to practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

• Art 20 and 21 can never be suspended

→ Art 20: Protection in respect of conviction for offences

- a → No ex-post-facto law
Exception: Criminal law ✓ Civil law ✗
- b → No double-jeopardy
- c → No self-incrimination



→ Olga Tellis vs Bombay Municipal Corporation Case

→ Art 21: Right to live and personal liberty

- No one shall be deprived from life and personal liberty except by the procedure established by law
- The foremost right among rights to freedom is the Right to Life and Personal Liberty

Most fundamental

Famous Cases

1. Gopalan Case

- Narrow stance on Right to life

2. Menaka Gandhi Case

- Wide stance
- SC overturned Gopalan Case

Meaning: unfair law to be declared null and void

• Right to travel abroad is a Fundamental Right

Procedure established by law + due process of law

→ Not in Constitution

→ Originated in England and later adopted by US

→ Art 21 (A): Right to primary education (6-14 yr)

→ 86th CA, 2002

- DPSP, FD changes

This article's provisions include:

- Free and compulsory education
- Prohibition of discrimination
- Equal opportunities for education
- Removing financial barriers to access to education
- Providing adequate infrastructure, facilities, and qualified teachers

→ Art 22: Protection against arrest and detention

a: suchit kiya jayega Kyun arrest kiya hai

b: 24 granted ke andar Magistrate ke samne prastoot

c: Legal waqil milega

It feels like crime kar sakte hai
Usi crime ko rokhne ke liye
detention

Exceptions

- Art 22 maybe restricted during emergencies, such as when President of India proclaims an Emergency

→ Art 23-24

→ Art 23: human trafficking and forced labour → Prohibited

→ Art 24: child labour → prohibited

Can work in safe place but in non-school hours

Below 14 years cannot be employed in hazardous place/dangerous place

Exception: under this article, state can force people to do compulsory services

Ex: During war

Art 26 clauses

- (1) Establish and maintain institutions for religious and charitable purposes
- (2) Manage religious affairs
- (3) Own an acquired movable and immovable property
- (4) Administer property in accordance with law

→ Art 25-28: Freedom of Religion

→ Art 25: Freedom of Conscience

→ Art 26: Collective right of freedom to manage religious affairs

→ Art 27: Freedom from paying tax → Dharm ke naam pe tax

→ Art 28: Dharmic instruction → not allowed in government aided schools

→ Art 29-30: Cultural and Educational Rights

→ Art 29: Right to protect language, script, culture of every citizen → for any section of society

→ Art 30: Establishment of religious educational institutes

Only for minorities (is nowhere defined)

Can provide education to his/her child in native language

→ Art 32-35: Right to Constitutional Remedies

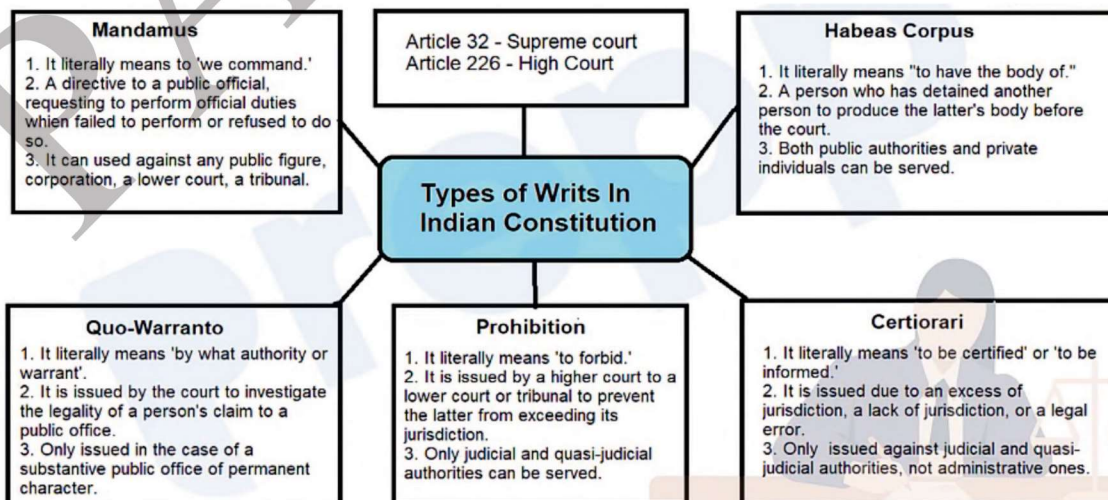
→ Art 32: "Heart and Soul of Indian Constitution" by B R Ambedkar

→ Art 226: can approach High Court when rights are violated

Writs vs Jurisdiction

- Supreme Court cannot refuse to issue writ but High Court can (When violation of FRs)
- High Court writ jurisdiction is wider than Supreme Court writ jurisdiction

Supreme Court can issue writs for fundamental rights only but High Court can issue writs for both fundamental rights and legal rights



Any other court

- Parliament can authorise any other court other than SC and HC to issue writs

- **Habeas Corpus**: to have the body of (for unlawful detention)
- **Mandamus**: we command
- **Prohibition**: to forbid
- **Certiorari**: to be certified
- **Quo Warranto**: by what authority of?

Art 33: Parliament power to restrict fundamental rights of armed personals

Art 34: restriction on fundamental rights while Martial Law is in force
Only in particular area

Art 35: power to make laws to give effect to fundamental rights (vested only on Parliament)

- Some FRs only available to Indian citizens, not foreigners → Art 15, 16, 19, 29, 30

* During 42nd CA: Indira Gandhi was PM (1976)

TRICK

LAW CREATES DOUBT SAMRO

- **Law**: Art 14
- **D**: Art 15 (Discrimination)
- **O**: Art 16 (opportunity)
- **U**: Art 17 (untouchability)
- **T**: Art 18 (titles)
- **SAAMRO** (already discussed)
- **C**: Art 20 (conviction)
- **L**: Art 21 (life)
- **E**: Art 21 A (education)
- **A**: Art 22 (detention)
- **L**: Art 23 and 24 (child labour)

A heavy responsibility would be cast on the majority to see that in fact the minorities feel secure. ...the only safety for the minorities lies in a secular State.
~Sardar Hukam Singh



DPSP AND FUNDAMENTAL DUTIES

DIRECTIVE PRINCIPLES		
Article 36 to 51 of the Indian Constitution embodies the Directive Principles of State policy. It acts as a guideline for the state while coming up with any new law but a citizen cannot compel the state to follow them.		
Socialist Provide adequate means of livelihood to citizens  Prevent concentration and ensure equal distribution of wealth & resources  Equal pay for equal work for all men and women  Ensure decent standard of living & leisure for workers  Provide opportunities & facilities to prevent exploitation of youth & children  Make efforts to secure the right to work  Assistance in case of unemployment, sickness & old age 	Liberal Free compulsory education for children upto 14 yrs  Separation of Judiciary and Executive  Protect monuments & historical places  Safeguard forests and wildlife of the country  Securing participation of workers in management of industries  A uniform civil code for the country  Organise animal husbandry & agriculture scientifically 	Gandhian Establish panchayats to function as units of self government  Prohibition of drugs and alcohol  Promotion of economic & education of weaker sections  Promotion of cottage industries  Prevention slaughter of cows, calves & milch cattle  DPSPs are positive obligations on the state. They were not made justiciable because India did not have sufficient financial resources. Moreover, its backwardness and diversity were also a hindrance in implementing these principles at that time. At the time of the drafting of the Constitution, India was a newly born independent state and was struggling with other issues and making DPSPs justiciable would have put India in great difficulty. Prof. Freddy Singaraj

Part IV: Directive Principle of State Policy → Later added to the Constitution

- Art 36–Art 51
- Taken from Ireland

Guidelines to Central and State Government of India, to be kept in mind while forming laws and policies

Used to check Constitutional values of any law

It is a positive Rights

• Art 36: Defines "State" as same as Art 12 unless the context otherwise defines.

Eg: Govt. bodies, Central Govt., etc.

• Art 37: They are non-justiciable

Novel features

DPSP: Non-justiciable rights (Cannot be enforced by any court)

- Instrument of instruction — DPSP → Resembles GOI Act 1935
- Novel feature of Constitution — B R Ambedkar
- Described DPSP as "Conscience of Constitution" — Grainville Austine
- Manifesto of aims and aspirations — K. C. Wheare
- Check payable by the bank at its own conscience — K. T. Shah
- Moral percepts for the authority of state — B N Rau

Principles which would further the goal of social exclusion

Cooperative Federalism of India

- DPSP seek to establish Social and Economic democracy
- They embody the concept of Welfare State

Added by 42nd CA 1976

Art 38
Welfare

Art 39
LDC PHC

Art 39A
Free legal aid

Art 40
Panchayat

Art 41
Right to work

Art 42
- Just and humane conditions
- Maternity leaves

- Art 38: To promote welfare of people by securing a social order permitted by justice, social, economic, and political, (and to minimise inequalities in income, status, facilities, and opportunities)

Added later through 44th CA

Art 43A
Participation of workers in the management of industries

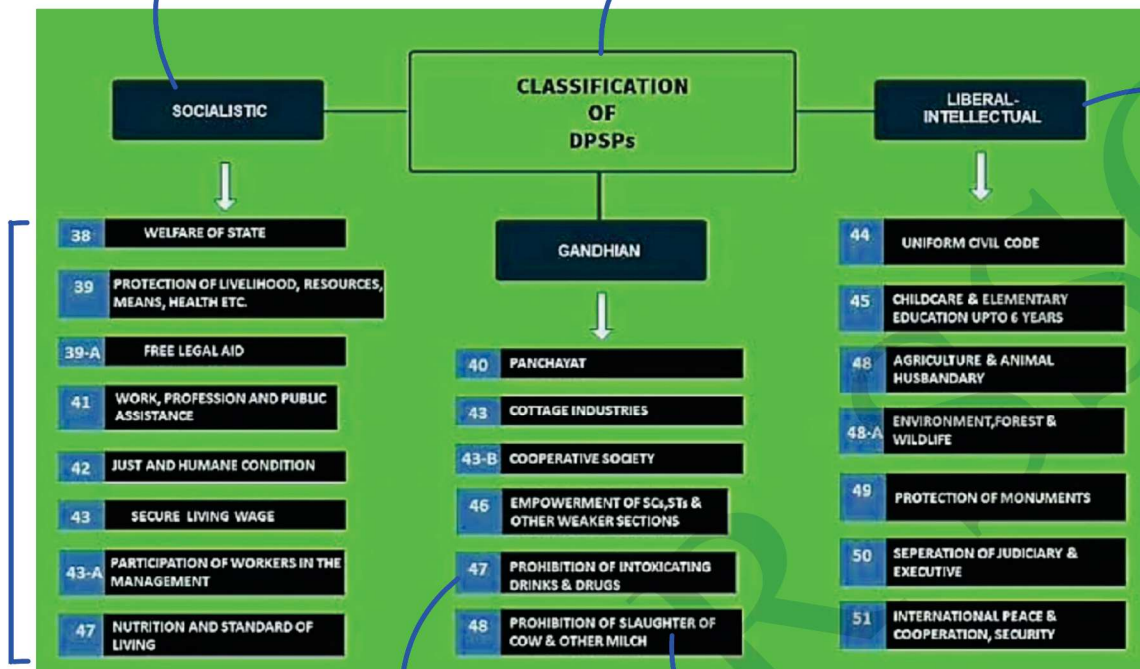
Art 43
Living wages

Emphasis the need for
equal opportunity and
Socio-economic justice

Classification not given in
Constitution

Not in
order

Focuses on
individual
rights and
liberties



To raise level of
nutrition

Animal husbandry
production

• Art 39

- (a) Livelihood — L
- (b) Material resources distribution — D
- (c) Concentration — C
- (d) Pay for equal work for both sexes — P
- (e) Health and strength of workers — H
- (f) Children — C

→ Subclause (f) added by 42nd CA 1976

• Art 44: Uniform Civil Code for the citizens

• Art 45: Early childhood care (0-6 yrs)

• Art 46: Promotion of education and economic interest of SC/ST and other weaker sections

• Art 40

The State shall take steps to organise village panchayats and endow them with such powers and authority, as may be necessary to enable them to function as units of self-government

Added by 73rd CA 1992

• Art 43B

The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control, and professional management of corporative societies

- **Art 47:** Duty of the state to raise the level of nutrition and standard of living and to improve public health
 - **Art 48:** Organisation of agriculture and animal husbandry
 - **Art 48A:** Protection and improvement of environment and safeguarding of forests and wildlife
 - **Art 49:** Protection of monuments and places and objects of national importance
 - **Art 50:** Separation of judiciary from executive
 - **Art 51:** (a) Promote international peace and security;
(b) maintain just and honourable relations between nations;
(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
(d) encourage settlement of international disputes by arbitration
- Amendments
- **42nd CA** —
 - **Poor:** free legal aid to poor → Art 39A
 - **Worker:** participation of workers → Art 43A
 - **Child:** opportunities for their healthy development → Art 39(f)
 - **Environment:** Art 48A
 - **44th CA** — To minimise inequality in income status facility and opportunities → Art 38
 - **86th CA** —
 - **FR** → **Art 21A** added (Art 21A ← ^{Justiciable} Art 45)
 - **DPSP** → **Art 45:** Early childhood care for 0-6 yrs (State)
 - **FD** → **Art 51A (k):** Guardian duty to provide education 6-14 yrs
 - **97th CA** → **Cooperative Society** → Art 43B
- (Changes made) → Changed the subject mater

* DPSP help judiciary to validate any law made by Legislature

Fundamental Rights vs DPSP

- **Champakam Dorairajan Case (1951):** SC said —
 - FR would prevail over DPSP
 - FRs are amendmendable
- Violation of Art 15(1), 29(2)

- **Golaknath Case (1967):** SC said — Parliament cannot take away FRs

Then

- By Parliament —
- 24th CA: Parliament can amend FRs
 - 25th CA: no law which seek to implement Art 39 (b) (c) shall be declared null and void on grounds of Art 14 and Art 19. No such law shall be questioned in any court

- **Keshavnanda Bharti Case (1973):** 13 bench judges case

Parliament can amend FRs however cannot disturb the "Basic Structure of Constitution" (24th CA)

25th CA: 1st provision ✓

2nd provision — Unconstitutional

- **Minerva Mill Case (1980):** Indian Constitution is found on the bedrock of balance between FRs and DPSP

Fundamental Duties

They are statutory and non-enforceable

- Fundamental Duties were not originally part of the Constitution — Part IVA (Art 51A)

Taken from
USSR

These are only applicable to Indians not
foreigners

Added through 42nd CA 1976

- Last FD → Art 51A (k) was added through 86th CA

At present 11 FDs

- Art 51A (k): it is duty of guardians to provide education to 6-14 yrs

Swaran Singh Committee

- Recommended the inclusion of Fundamental Duties in the Indian Constitution in 1976

Added 8 FDs

- 5 duties ✓

- 3 rejected ✗

- The provision for imposing penalties for not observing any of the duties
- The provision that no law imposing a penalty could be challenged in court
- The duty to pay taxes

FUNDAMENTAL DUTIES

The Constitution of India

Article 51A

It shall be the duty of every citizen of India

Art 51A

- to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem ;
- to cherish and follow the noble ideals which inspired our national struggle for freedom ;
- to uphold and protect the sovereignty, unity and integrity of India ;
- to defend the country and render national service when called upon to do so ;
- to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities ; to renounce practices derogatory to the dignity of women ;
- to value and preserve the rich heritage of our composite culture ;
- to protect and improve the natural environment including forests, lakes, rivers, wild life and to have compassion for living creatures ;
- to develop the scientific temper, humanism and the spirit of inquiry and reform ;
- to safeguard public property and to abjure violence ;
- to strive towards excellence in all spheres of individual and collective activity so that the Nation constantly rises to higher levels of endeavour and achievement ;

Abide

b: Bhagat Singh

c: 3 duties

d: to defend

e: panch — to promote equality

f: fort

g: greenery

h: humanism

i: eye — Non-violence "an eye for an eye"

M K Gandhi

j: jeddu — Jadeja (all rounder)

- Fundamental Duties have ethical, social, economical significance

Difference between FRs and DPSP

FRs	DPSP
• They entail negative obligations, restraining the state from certain actions • They are justiciable, can be legally enforced • Aim to establish political democracy within the country • Backed by legal sanctions • Emphasize individual welfare • Automatically enforced without requiring additional legislations • Courts can invalidate laws violating Fundamental Rights	• They involve positive obligations, mandating the state to take specific actions • They are non justiciable, lacking legal enforceability • Aim to establish social and economic democracy within the country • Supported by moral and political sanctions • Focus on societal welfare • Requires legislative enactment for implementation • Courts cannot invalidate laws violating DPSP • directly but may uphold laws aimed at fulfilling them

Justice Verma Committee

It identify the existence of legal provisions for implementation of Fundamental Duties

- The Unlawful Activities (Prevention) Act (1967) (UAFA)
- Prevention of insults to National Honours Act (1971)
- Wildlife Protection Act (1972)
- Forest Conservation Act (1980)
- Representation of the People Act (1951) (RPA)
- Indian Penal Code
- Protection of Civil Rights Act (1955)

• FDs are only for Indian citizens, not for alien (foreigners)

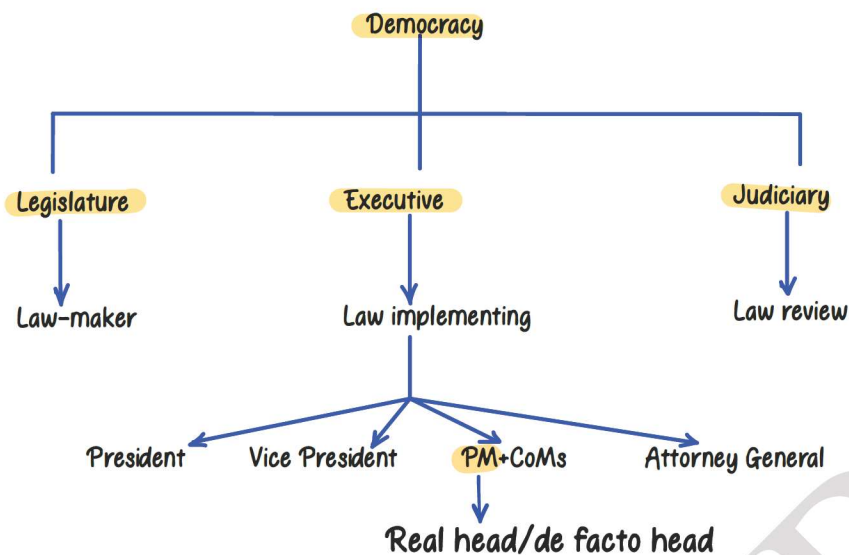
CONSTITUENTS OF THE BASIC STRUCTURE

Federal & secular character of the Constitution	Democratic character of our policy	Liberty of thought, expression, belief, faith and worship
Welfare state and egalitarian society	Equality of status and opportunity	Separation of powers
Dignity of the individual	Unity and integrity of the nation	Sovereignty of India

PRESIDENT AND VICE PRESIDENT



• **Part V: Union Executive** → Art 52-78



• **Part V of Constitution deals with 'The Union Government' based on 5 chapters**

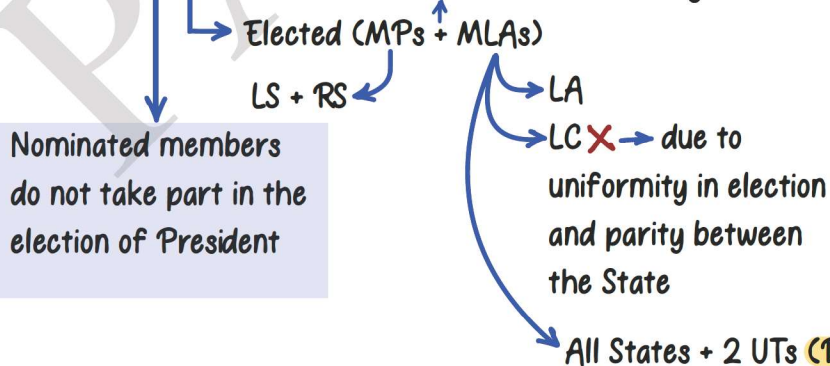
- **Chapter I: Union Executive - President and Vice President (Art 52-78)**
- **Chapter II: Parliament- Council of States and House of the people (Art 79-122)**
- **Chapter III: Legislative powers of the President (Art 123)**
- **Chapter IV: Union Judiciary- SC and HC (Art 124-147)**
- **Chapter V: Comptroller and Auditor-General of India (Art 148-151)**

Union Executive

PRESIDENT

- **Art 52:** There shall be a President of India, who shall be the Head of Union Executive
- **Art 53:** Executive power of Union shall vest in President + Supreme Commander of all the defence forces (Army, Navy, Airforce)

- **Art 54:** President is elected by electoral college



- President is the head of the country
- First citizen of India
- State nominal head
- Titular head
- de jure head of the country

• Art 55: Manner of election

No defection
provision in
President's case

- Indirect (not directly by the people): RS, President, V. President
- Proportional representation + Single Transferrable Vote (STV)
- By secret ballot

* Every candidate has to make a security deposit of ₹15,000 in Reserve Bank of India

• 50 proposers + 50 seconders → President elections

• Electoral Quota = $\frac{\text{Total number of valid votes polled}}{\text{Vacancies} + 1} + 1$

• Value of vote of all MLAs = $\frac{\text{Total population of state}}{\text{No. of elected MLA}} \times \frac{1}{1000}$

• Value of vote of MP = $\frac{\text{Total value of votes of all MLAs}}{\text{Total no. of elected MPs}}$

• Art 56: Term of President → 5 yrs

Resigns to

→ Vice President

• Max. serving President: Dr. Rajendra Prasad

• Served as Vice President 2 times: Dr. Sarvepalli Radhakrishnan

• Art 57: Re-election of President: any no. of times

→ Naturalised citizen can become President

• In USA → A person can remain as President for max. 2 terms
No naturalised citizen can become President

• Art 58: Qualification of President

- 1 — Citizen of India
- 2 — Age: Min. 35 yrs
- 3 — Should be qualified to be appointed as a member of Lok Sabha
- 4 — Should not hold office of profit → Not defined in the Constitution

→ President, Vice President, Minister, PM (not under Office of Profit)

• Art 59: Conditions of office of President

- ① President shall not be member of either house of Parliament and State Legislature
 ↓
 If a member — should deem to vacate his seat before being appointed as President
 ↗ He/She should not hold any other office of profit
- ② Emolument and allowances shall not be diminished during his term

• Art 60: Oath of President → by Chief Justice of India

↓ If not present then
 Senior most judge

• Art 61: Impeachment for "violation of Constitution"

Removal procedure How? Not defined in Constitution

All MPs (Elected + Nominated)

Resolution

- 14 days prior notice — Either in LS/RS
- Signed by not less than 1/4th of the total members of the house

Then?

Quasi-judicial process

- 1st house → 2/3rd of the total membership of the house (Special Majority)
- 2nd house → Special Majority

Impeachment is

Difference

- *MLAs participate in President's election, but not in impeachment
- *Nominated MPs do not participate in election but participate in impeachment

Elected members of LA + UT of Delhi and Puducherry

- Till date, no president has been impeached
- Process of impeachment taken from USA

Art 62: Election to fill vacancy

Term completed → President's office must not remain empty—
elections held before that

Death

Resign

Removal

Vice President/CJI/judge of SC acts as an
Acting President (max. 6 months)

• An election to fill a vacancy caused by the expiration of term of office of President shall be completed before the expiration of the term

An election to fill a vacancy in the office of President occurring by the above reasons or otherwise shall be held as soon as possible after or in no case later than 6 months from, the date of occurrence of the vacancy

Articles Related to President

Article 52	The <u>P</u> resident of India	Pr
Article 53	<u>E</u> xecutive power of the Union	E
Article 54	<u>E</u> lection of President	E
Article 55	<u>M</u> anner of election of President	M
Article 56	<u>T</u> erm of office of President	T
Article 57	<u>E</u> ligibility for <u>r</u> e-election	Re
Article 58	<u>Q</u> ualifications for election as President	Q
Article 59	<u>C</u> onditions of President's office	C
Article 60	<u>O</u> ath or affirmation by the President	Ome
Article 61	<u>I</u> mpeachment of the President	In
Article 62	<u>T</u> ime of holding election to fill vacancy in the office of president	T

TRICK

PRESIDENTS OF INDIA

1st Dr. Rajendra Prasad  26 January 1950 to 13 May 1962 (2 terms)	2nd Dr. Sarvepalli Radhakrishnan  13 May 1962 to 13 May 1967	3rd Dr. Zakir Husain  13 May 1967 to 3 May 1969	4th Shri Varahagiri Venkata Giri  24 August 1969 to 24 August 1974	5th Dr. Fakhruddin Ali Ahmed  24 August 1974 to 11 February 1977
6th Shri Neelam Sanjiva Reddy  25 July 1977 to 25 July 1982	7th Giani Zail Singh  25 July 1982 to 25 July 1987	8th Shri R Venkataraman  25 July 1987 to 25 July 1992	9th Dr Shankar Dayal Sharma  25 July 1992 to 25 July 1997	10th Shri K.R. Narayanan  25 July 1997 to 25 July 2002
11th Dr. A.P.J. Abdul Kalam  25 July 2002 to 25 July 2007	12th Smt. Pratibha Devisingh Patil  25 July 2007 to 25 July 2012	13th Shri Pranab Mukherjee  25 July 2012 to 25 July 2017	14th Shri Ram Nath Kovind  Sworn in on 25 July 2017	



Acting Presidents: Shri V. V. Giri: (3 May 1969 to 20 July 1969); Justice M. Hidayatullah (20 July 1969 to 24 August 1969); Shri B. D. Jatti: (11 February 1977 to 25 July 1977)

KBK Graphics

• Art 63: there shall be a Vice President of India

→ Seeking election?

→ Security deposit of 15,000/-

• Art 64: Vice President shall be ex-Official Chairman of Council of State (RS)

• Art 65: Vice President to act as president during casual vacancies

In absence of President

• Vice President is the second citizen of India

• Art 66: Election of Vice President

- ① Electoral college All MPs (of both houses)
- ② Manner of election: Proportional representation + STV
 - Voting through secret ballot
- ③ Vice president shall not be a member of either house of Parliament and State Legislature (same as President)
- ④ Eligibility
 - Citizen of India
 - Age: 35 yrs
 - He should be qualified to be elected as a member of RS
- ⑤ Should not hold any office of profit

• Art 67: Term of Office of Vice President

- Resignation → To President (vice-versa)
- Can hold office up to 5 years
- Removal → Resolution can initiate only in RS → Majority of all the then members
 - Effective majority
 - 14 days prior notice
- Will be present until being replaced by another (new) Vice President

• Art 68: Time of holding election to fill vacancy → Within 60 days

• Art 69: Oath → by President

→ On expiry of tenure/resignation/removal by Parliament/death/disqualification to hold office when declared null and void

Or any person appointed on behalf of him

• Art 70: Discharge of President's function in other contingencies

Art 71: Matters relating to election of President and Vice President

- 1 All the doubts and disputes arising out of or in connection with election will be dealt by SC
- 2 If the election of VP is declared void by SC, then the acts done by the person in performance of powers and duties of office on and before the date of decision to be considered valid
- 3 Parliament may by law regulate any matter relating to or connected with the election of a President or Vice President
- 4 The election of VP or President cannot be challenged on the ground that electoral college electing the person was incomplete

Proportional representation + Single Transferable Vote

In case of President, RS, Vice President

→ 20 proposers + 20 electors as proposers

- A person who votes → has power of multiple votes

Candidate vote	A	B	C	D	
	4	1	3	2	
	1	3	2	4	
	2	4	1	3	
					Preference based
					• 1st preference?
					• Quota?
					Winner

• Art 72: Pardoning power of President

Can pardon death
sentence

Difference

- Governor cannot pardon death sentences
- Governor cannot pardon Court Martial

• Art 161: Pardoning power of Governor

Types of pardoning power of President

- **Pardon:** Gives President authority to remove both the punishment and judgement
- **Commute:** Form of punishment that replaces one penalty form with another less rigid one
- **Remission:** The President decreases the time duration of the punishment, but the nature of the verdict stays the same
- **Respite:** This power lets the President reduce the punishment which is officially granted because of some specific reason
 Eg: in case of pregnancy of a women culprit, or if the convict is dealing with a physical disability
- **Reprieve:** The power indicates a stay of the enactment of a death penalty for a temporary duration

- **Longest serving VP:** Hamid Ansari (Only VP to serve under three Presidents)

Kehar Singh vs Union of India Case: 1988

In Kehar Singh case (1988), SC examined the pardoning power of President and said that:

- The exercise of pardoning power by President is not subject to **judicial review**, except where the presidential decision is arbitrary, irrational, mala fide, or discriminatory

Judicial Power

1. He/she appoints the Chief Justice and the judges of Supreme Court and High Courts
2. He/she can seek advice from the Supreme Court on any question of law or fact. However, the advice tendered by the Supreme Court is not binding on the President
3. He/she can grant pardon, reprieve, respite and remission of punishment or suspend, remit or commute the sentence of any person convicted of any offence



Dr. Sarvepalli
Radhakrishnan
May 13, 1952 to May 12,
1962

Dr. Zakir Hussain
May 13, 1962 to May 12,
1967

Sh. V.V. Giri
May 13, 1967 to May 3, 1969

Sh. Gopal Swarup
Pathak
August 31, 1969 to August
30, 1974



Venkiah Naidu
11 Aug 2017-10 Aug 2022



Sh. B.D. Jatti
August 31, 1974 to August
30, 1979

Sh. M. Hidayatullah
August 31, 1979 to August
30, 1984

Sh. R. Venkataraman
August 31, 1984 to July 24,
1987

Dr. Shanker Dayal
Sharma
September 3, 1987 to July 24,
1992



Jagdeep Dhankar
11 Aug 2022-Present



Sh. K.R. Narayanan
August 21, 1992 to July 24,
1997

Sh. Krishan Kant
August 21, 1997 to July 27,
2002

Sh. Bhairon Singh
Shekhawat
August 19, 2002 to July 21,
2007

Sh. M. Hamid Ansari
August 11, 2007 to August
10, 2017

PRIME MINISTER



• **Part V: The PM + COMs**

• **Part VI: The Governor**

PRIME MINISTER

Art 74-78

PM

Assists them, He is the Head of the Council

COMs

• **Classification of different ministers** → not mentioned in the Constitution



* The full term of the PM is **five years**, which coincides with normal life of Lok Sabha. However, if he/she loses the confidence of Lok Sabha, he/she must resign, or the President can dismiss him/her.

PM of India is Chairman of:

- NITI AAYOG
- Interstate Council
- NDC (not in existence now)
- National Disaster Management Authority

Art 74: Council of Ministers to aid and advise President

- 1 There shall be a Council of Ministers with the PM as the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with the advice

"Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration." - 44th CA

- **The PM:** Real Head/de facto/Head of Govt.
- **The President:** Nominal Head/de jure head/Head of the country/Elected head/Titular head

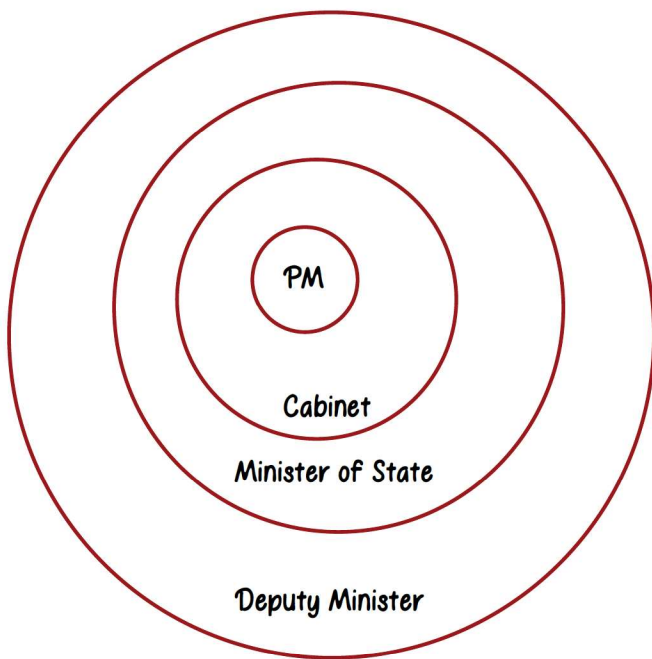
Parliamentary

The UK

Presidential

The USA

By Rojgar Revision



Art 352 (3)

'Cabinet'

44 CA 1978

Not originally mentioned in the Constitution

- 2 The question, whether any, and if so, what, advice was tendered by ministers to the President, not be enquired into any court

Art 75: Other provisions as to Ministers

Head of any party in majority in LS

- 1 Appointing authority
 - PM appointed by President
 - COMs appointed by President (on advice of the PM)
- 1A 91st CA

COMs + PM strength shall not exceed → 15% (total number of members of the House of the People)

→ Lower House (LS)
- 1B 91st CA

If any member disqualifies on the grounds of defection — They cannot become Minister
- 2 Ministers are individually responsible to the President (shall hold office during the pleasure of the President)
- 3 COMs are collectively responsible to the House of the People (LS)
- 4 Oath of Ministers administered by the President
- 5 A Minister who for any period of 6 consecutive months is not a member of either House of the Parliament, shall at the expiration of that period cease to become a minister
- 6 Salaries and Allowances → Decided by Parliament (shall be as specified in the 2nd Schedule)

* PM can be a member of either House of the Parliament (RS/LS)

Different kind of Ministers (not specified in Constitution)



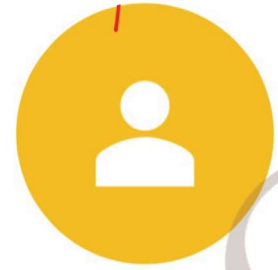
CABINET MINISTER

Important portfolios: Defence Minister, Home Minister, Finance Minister, Education Minister, Health Minister



MINISTER OF STATE

Looking after small unimportant Ministry or a particular Department



DEPUTY MINISTER

Assist Cabinet Minister and Minister of State

→ In Cabinet meeting, only Cabinet Ministers participate, Minister of State do not

Art 76: Attorney General of India

- • Highest law officer of the country
- Lawyer of Central Government

- 1 — The President shall appoint a person who is qualified to be a judge of Supreme Court to be Attorney General for India
- 2 — Duty: to give advice to Government of India upon such legal matters
- 3 — AG shall have right of audience in all courts in territory of India
- 4 — The AG shall hold office during the pleasure of president, and shall receive such remuneration as the President may determine

POINTS TO REMEMBER

- He is not full-time council of government
- He's not debarred from the private legal practice

- 1st AG: M. C. Setalvad (longest serving)
- Current AG: R. Venkataramani

Solicitor General

- They are secondary law officers who assist Attorney General
- They are not a constitutional body

- Current Solicitor General of India: Tushar Mehta

Advocate General

He is the highest law officer of the state

Art 165

- Appointed by Governor → shall be qualified to be appointed as judge of HC
- Duty: to give advice to State Government upon such legal matters
- Shall hold office during the pleasure of Governor

COMs — Resign/Death/Removed

PM — Death/Resigns

Vacancy is created

COMs is dissolved (Entire COMs has to resign)

Another party leader becomes the PM

Ex: Nehru died in 1964 (longest served PM: 16 years 286 days)

Gulzarilal Nanda became the PM (senior most)

13 days later

Lal Bahadur Shastri became the PM

Death

Gulzarilal Nanda (again PM for 13 days)

Indira Gandhi (next PM)

No confidence motion
raised against himAtal Bihari Vajpayee has served a
term of 13 days as PM

Leader: Monitor

Presiding Officer: Class Teacher

Lok Sabha

Indira Gandhi

HD Deve Gowda

Manmohan Singh

He became the PM of India
without becoming a Union Cabinet
Minister

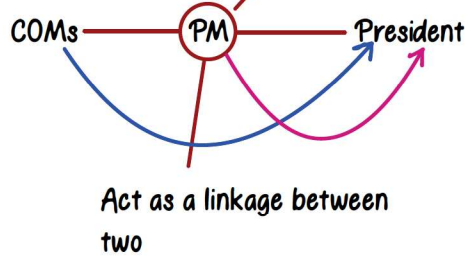
RS members (only 3 till now)

Art 77: Conduct of business of Govt. of India

- 1 — Executive actions of GOI shall be expressed to be taken in the name of the President
- 2 — Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as specified in rules to be made by the President
- 3 — The President shall make rules for more convenient transaction of the business of GOI and for the allocation among Ministers of said business

PM is the linchpin of Govt. — Nehru

Art 78: Duties of PM



The PM communicates all decision of COMs to the President, including those related to administration of Union and proposals for legislation

- **78 (a)** To communicate to the President all decisions of the COMs relating to the administration of the affairs of the Union and proposals for legislation;
- **78 (b)** To furnish such information relating to the administration of the affairs of the Union and proposals for legislation as the President may call for; and
- **78 (c)** If the President so requires, to submit for the consideration of the COMs any matter on which a decision has been taken by a minister but which has not been considered by the Council of Ministers

• The first Indian PM to resign from office: Morarji Desai

"Collective responsibility can be achieved only through the instrumentality of the Prime Minister" said by: Dr B R Ambedkar

Appointment of PM

- The President has to appoint the leader of the majority party in the Lok Sabha as the Prime Minister

Oath, Term and Salary of PM

- The President administers to him/her the oaths of office and secrecy
- The term of the Prime Minister is not fixed and he/she holds office during the pleasure of the President. This does not mean that President can dismiss PM any time
- The salary and allowances of the Prime Minister are determined by the Parliament from time to time (similar to Lok Sabha Member)

Power and Functions of PM

- He/she advises the President with regard to summoning and proroguing of the sessions of the Parliament
- He/she can recommend dissolution of the Lok Sabha to President at any time
- He/she announces government policies on the floor of the House
- He/she recommends persons who can be appointed as ministers by the President
- He/she allocates and reshuffles various portfolios among the ministers
- He/she can ask a minister to resign or advise the President to dismiss him/her in case of difference of opinion
- He/she presides over the meeting of council of ministers and influences its decisions
- He/she guides, directs, controls, and coordinates the activities of all the ministers
- He/she can bring about the collapse of the COMs by resigning from office

LIST OF PRIME MINISTERS OF INDIA							
							
Jawaharlal Nehru 1947 - 1964	Lal Bahadur Shastri 1964 - 1966	Indira Gandhi 1966-1977 1980 - 1984	Morarji Desai 1977 - 1979	Charan Singh 1979 - 1980	Rajiv Gandhi 1984 - 1989	V.P. Singh 1989 - 1990	
							
Narendra Modi 2014 - Present	Dr. Manmohan Singh 2004 - 2014	Inder Kumar Gujral 1997 - 1998	H.D. Deve Gowda 1996 - 1997	Atal Bihari Vajpayee (May 1996) 1998 - 2004	P.V. Narsimha Rao 1991 - 1996	Chandra Shekhar 1990 - 1991	

- Chaudhary Charan Singh: served as PM for 170 days
- Chandra Shekhar: 7 months
- VP Singh: 11 months
- HD Deve Gowda: 10 months

PARLIAMENT AND STATE LEGISLATURE PART 1



- Part V: Parliament (Art 79-122)
- Part VI: The State Legislature (Art 168-177)

Art 79: Constitution of Parliament

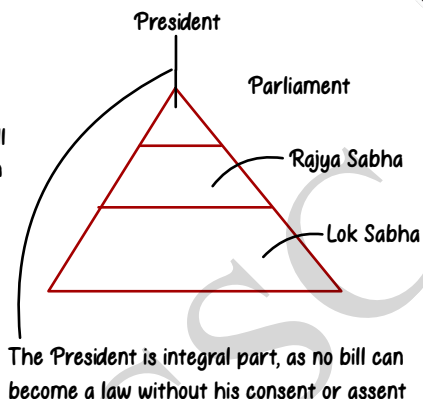
- They shall be a parliament for Union, which shall consist of President and two houses to be known respectively as Council of State (RS) and the House of People (LS)
- House of the People (Directly elected by people)
- Min age to become a member: 25 yrs

Lok Sabha

- Lower House
- First Chamber
- House of the People (Directly elected by people)
- Min age to become a member: 25 yrs

Rajya Sabha

- Upper House
- Second Chamber
- Council of States (Representative of States)
- Min age to become a member: 30 yrs (also known as "House of Elders")



First Sitting

- Lok Sabha: 13 May 1952 → Constituted on: 17 April 1952
- Rajya Sabha: 13 May 1952

- In 1954, the Hindi names — Lok and Rajya Sabha were adopted

- Parliamentary form of Government: Borrowed from UK (Britain) → Westminster Model

Art 80: Composition of Council of States — RS

It is a federal feature (Representation of States)

Max: 250 members

238

- Elected by people
- Voting in RS

12

- Nominated by President in the field of
 - Li: Literature
 - S: Science
 - A: Arts
 - S: Social Science

At present: 245 seats (As of 2023)

- 5 vacant for POK, Akshai Chin, etc
- 233: Elected by legislature of States and UT using STV through open ballots
- 12: Nominated by President

PT Usha: Recently nominated

Known as "Paygoli Express"

On what grounds?

- Social Service

Representation

- Indirect
- Proportional — In RS
- STV → Single Transferable Vote

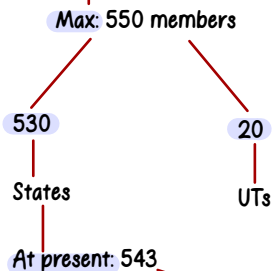
RS election is in Open Ballot

In Rajya Sabha: Unequal representation

- UP: 31
- Sikkim/Meghalaya/Arunachal/Goa: 1

- Election of RS members: Taken from South Africa
- Nomination of RS members: Taken from Ireland

Art 81: Composition of House of the People — LS



- 2 Anglo Indians nominated by President — This was removed later through 104 CA

Elections and Representations

- 28 states: Parity among Inter and Intra-states
- Direct election

Art 82: Readjustment after each Census

Delimitation Commission

- Division of Constituencies on the basis of population
- After every Census — 10 yrs

In India, such Delimitation Commission have been constituted Four times, in 1952 under the Delimitation Commission Act, 1952, in 1963 under the Delimitation Commission Act 1962, in 1973 under the Delimitation Commission Act, 1972 and in 2002 under the Delimitation Commission Act, 2002

- First: 1952
- 42nd CA, 1976 → Till 2000, seats were fixed on the basis of population

- 84th CA (2001): Extended till 2026 (No Delimitation Commission) — Froze the constituency boundaries till 2026
- Division of seats — According to 2001 Census
- 87th CA (2003): Delimitation according to 2001 Census

The word "Delimitation" literally means the act or process of fixing limits or boundaries of territorial constituencies

Do you know that Lok Sabha has Green Carpet & Rajya Sabha has Red Carpet? But Why?

Green Colour represents India is an Agriculture land and the people here are elected from grass root level.

Red Colour represents royalty and also tells about the sacrifice done by the freedom fighters and the blood they shed to gain independence for India.



Themes of new Parliament buildings

- Lok Sabha: Peacock
- Rajya Sabha: Lotus

Previous Census 2011 (No Census yet, delayed due to COVID)

Delimitation Commission in Jammu & Kashmir on basis of 2011 Census

- Accordance to Part V of J & K Act, 2019 (34 of 2019)
- Setup on 6th March, 2020 — Headed by Justice Ranjana Prakash Desai

Art 83: Duration of Houses of the Parliament

- RS: No duration — not written in Constitution
- RS members duration: 6 yrs — 1/3rd members retire after every 2 yrs
- LS: As a house — 5 yrs unless dissolved
- LS members duration: Co-terminous with the LS as a house
- Duration can be extended only in case of national emergency for one year at a time (when cease: within 6 months fresh elections)

Art 84: Qualification of members of the Parliament

- Is a Citizen of India
- Any other qualification which Parliament may determine
- Age
 - RS: 30 yrs
 - LS: 25 yrs

Art 85: Sessions of Parliament, prorogation and dissolution → On advice of COMs

- 3 sessions (summoned by President)
 - Budget: Feb-Towards the end of April
 - Monsoon: July-August
 - Winter: December
- The maximum gap (recess) between two sessions cannot exceed 6 months

Prorogation: It ends a session

Dissolution: It ends the live session of Lok Sabha (Act of dissolving)

House dissolved by the President on no-confidence motion

Adjournment: By Presiding Officer of the house; it ends a sitting/meeting

- Pre-lunch
 - At 11 AM: Meeting starts (1st day)
 - 11 AM-12 PM → Question hour (1st hour of every meeting)
 - 12-1 PM → Zero hour (to decide the agenda of the day)
 - Lunch

3 types of Questions

- Starred: Oral question-answer (Supplementary)
- Unstarred: Written
- Short notice: 10 days prior notice

Adjournment Sine die: by Presiding Officer

- It ends the meeting without providing a date
- It happens just before the prorogation

In LS: Speaker

In RS: Vice President/Chairman

At present

• LS speaker: Om Birla

• RS speaker: Jagdeep Dhankar

• Art 86: Right of President to address and send messages to the House

• Art 87: Special address by the President

Motion of Thanks

At the commencement of first session after each general election (LS)

First session of each fiscal year

Financial year: 1st April-31st March

1. The President may address either House of Parliament or both Houses assembled together, and for that purpose require the attendance of members
2. The President may send messages to either House of Parliament, whether with respect to a Bill then pending in Parliament or otherwise

Collectively addressed
by the President

• RS: Continuing chamber

• Policies need to be passed from both the Houses separately

• Session adjourned, prorogue: LS + RS

Dissolved: LS

• Summoning power: President

• Adjournment power: Presiding Officer

• Art 88: Rights of Ministers and Attorney General of respective Houses

• Right to speak in LS/RS, but no right to vote

• Can only vote in the House they belong to

Not a member of either House, but
right to speak in LS/RS

Officers in Parliament

• Art 89: Chairman and Deputy Chairman of the Council of States

① Vice President (Ex Officio Chairman of the Council of States)
Not the member of either House of the Parliament

② Deputy Chairman — Elected by the House

Acting chairman — in absence of chairman

He is a member of RS

• Art 90: Vacation and resignation of, and removal from, the office of DC

• If he is not a member of RS

• Resignation by writing to chairman (Vice President) of RS

• Removal by a majority of all then members of RS — Effective Majority

→ In LS: Removal by Simple Majority

• Art 91: Power/duty of DC

• When Chairman and DC is absent?

• The chairman appoints 10 members as a panel of Vice chairperson

One member from here, presides the House

• When seats are vacant

When Office of Chairman is vacant and or Vice President is acting as President, the duties of office of Chairman shall be performed by the Deputy Chairman

If Deputy Chairman is also absent then, the President can choose any member to discharge duties of RS

• Panel of RS Vice Chairperson: P. T. Usha (first woman to be appointed)

• Art 92: chairman and DC not to preside while in a resolution for his removal is under consideration

Act as

Any member of the house when Chairman is presiding in the house

② Right to vote

• Voting at first instance (majority votes counted)

• Casting vote (equality of votes) → Presiding Officer is given casting vote

The Chairman or Deputy Chairman has the right to participate in proceedings and speak during the consideration of removal resolution, but can only vote in first instance and not in case of a tie

Art 93: Speaker and Deputy Speaker of House of the People

1st speaker of LS: Ganesh Mavalankar

Both chosen by the House within themselves

Speaker is from ruling party

Deputy Speaker is from opposition party

LS can choose two members of the House as speaker and deputy speaker if the office of Speaker or Deputy Speaker is vacant

Conventions (not written in the Constitution)

Art 94: Vacation and resignation of, and removal from, the offices of Speaker + Deputy Speaker

Provisions

Not a member of the House (shall vacate if cease to be a member)

Chosen

Do not subscribe to any oath

Resignation: Speaker $\rightleftharpoons$ Deputy Speaker

Removal: Effective Majority $\rightarrow$ Passed by the majority of then members of the House

Speaker shall not vacate his office until immediately before the first of the meeting

Speaker cannot leave, even if Lok Sabha is dissolved $\rightarrow$ Can leave after the new one

New Speaker

Art 95: Powers to perform duties

Speaker and Deputy Speaker

Absent in RS: Speaker nominates $\rightarrow$ Panel of Vice Chairpersons

Absent: Speaker appoints not more than 10 persons as Panel of Chairpersons and among them, one will preside (LS)

Vacate: President chooses one to preside

- Election date of Speaker: Fixed by President
- Election date of Deputy Speaker: Fixed by Speaker
- 1st Deputy Speaker: M A Ayyangar
- Since 2019, the LS does not have a Deputy Speaker

Art 96: Speaker and Deputy Speaker not to preside while in resolution for his removal

Voting at first instance

Any member of the House when speaker is presiding in the House

Art 97: Salary and Allowances of Chairman and Deputy Chairman and the Speaker and Deputy Speaker $\rightarrow$ Decided by Parliament

Art 98: Secretariat of Parliament

IAS Officer

LS Speaker and RS Chairman

President appoints Secretariat on advice of Speaker of the House

Art 99: Oath or Affirmations

By the President or some person appointed on behalf by the President

Appoints Protem Speaker (Temporary Speaker)

He is the senior most
(provides oath to newly
appointed members)

PARLIAMENT



Art 100: Voting in Houses, power of Houses to act notwithstanding vacancies and quorum**100(1): Voting in House**

The Chairman or Speaker or person acting as such, shall not vote in the first instance, but shall have and exercise a casting vote in case of an equality of votes

100(3): Quorum

Minimum number of members required to carry on proceedings of the House (Quorum: 10% or 1/10th)

100(4): Adjourn

If the Quorum is not met, Presiding Officer suspends the meeting

Art 101: Vacation of Seats

1 No person shall be a member of both Houses of Parliament

2 No person can be a member of State Legislature and a member of Parliament

1 3 Members can become subject to disqualification as mentioned in Art 102

→ 3(A): a member can resign his seat to Chairman or Speaker

4 If for a period of 60 days, a member of either House of the Parliament and without permission of the House is absent from all meetings thereof, the House may declare his seat vacant

Art 102: Disqualification of Membership

1a. If he hold any office of profit under Govt. Of India or any State

1b. If he is of unsound mind and stand so declared by a competent court

1 1c. If he is an undischarged insolvent

1d. If he is not a citizen of India or voluntarily acquired foreign citizenship

1e. If he is so disqualified by or under any law made by parliament

RPA: People Representation Act, 1951
Jail for more than two years — disqualification

2 A person shall be disqualified for being a member of either House of the Parliament if he is so disqualified under 10th schedule — Defection (decision of Speaker of LS is final)

Disqualification under Defection (10th Schedule, 52nd CA 1985)

On grounds of:

- Independent members joins any political party
- Nominated members, join the political party after 6 months from date of his nomination
- If he votes contrary to the direction of his party (did not follow the direction of whip) → The term is not mentioned in Constitution
- If the member voluntarily gives up the membership of the party on whose ticket he has been elected

Exception

- **Merger:** 2/3rd members leave and joins other political party (91st CA)

- Any question regarding disqualification arising out of defection is to be decided by Presiding Officer of the House

Decision with regard to disqualification under defection

Presiding Officer

Kihoto Hollohan vs Zachillhu Case

Judiciary can review the final

91st CA: Disqualification on ground of defection

• **Art 103:** Decision on disqualification of members

1. If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications, decision of the President and his decision shall be final
2. Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission

• **Art 104:** Penalty for sitting and voting before making oath or affirmation under Art 99 or when not qualified or disqualified

Penalty of 500 Rs per day

Exception

Not to President (no criminal proceeding against him)

• **Art 105:** Power and privileges → are also extended to those who are entitled to speak in the Parliament

Freedom of speech in Parliament

Attorney General

No MP shall be liable to any proceedings in any court w.r.t any said/vote in Parliament

MP cannot be arrested in any civil proceedings during a session — 40 days before/after the session

This privilege is not available in criminal or preventive detention cases

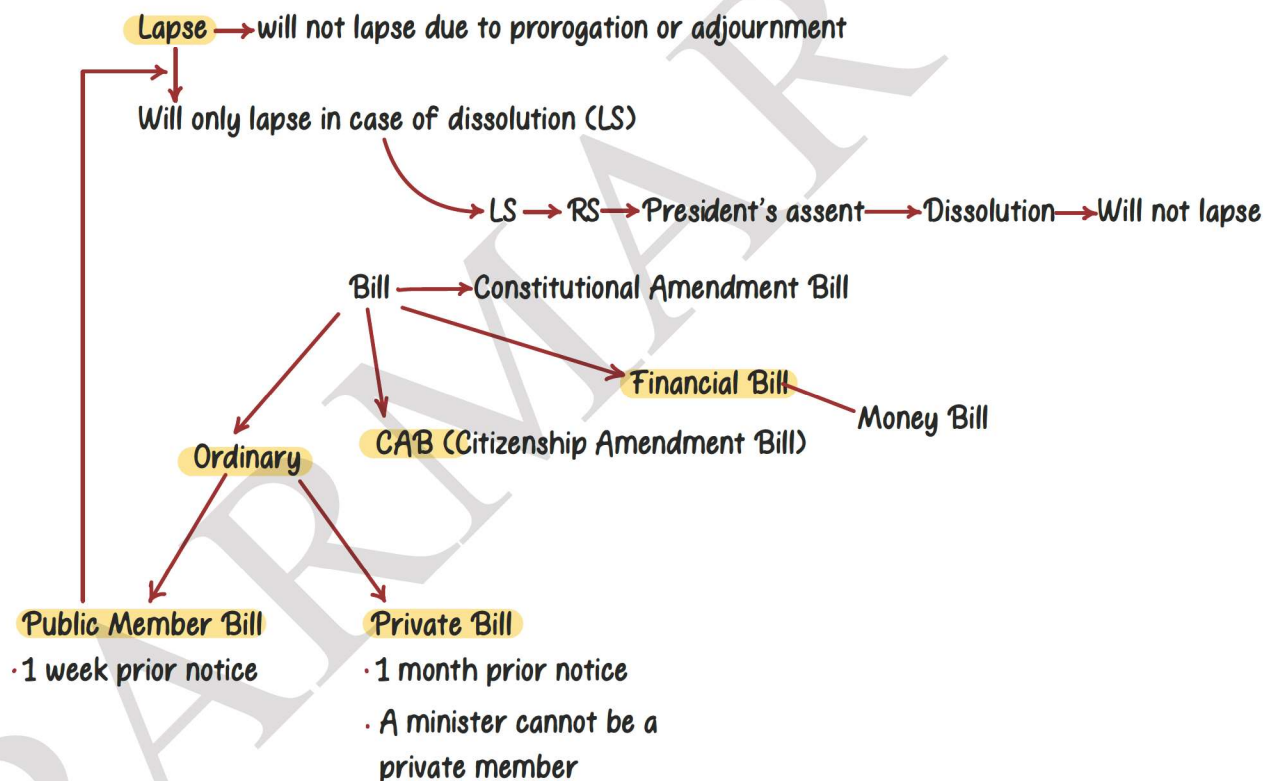
• **Art 106:** Salaries and allowances of members

Determined by Parliament
time to time

Legislative Procedures

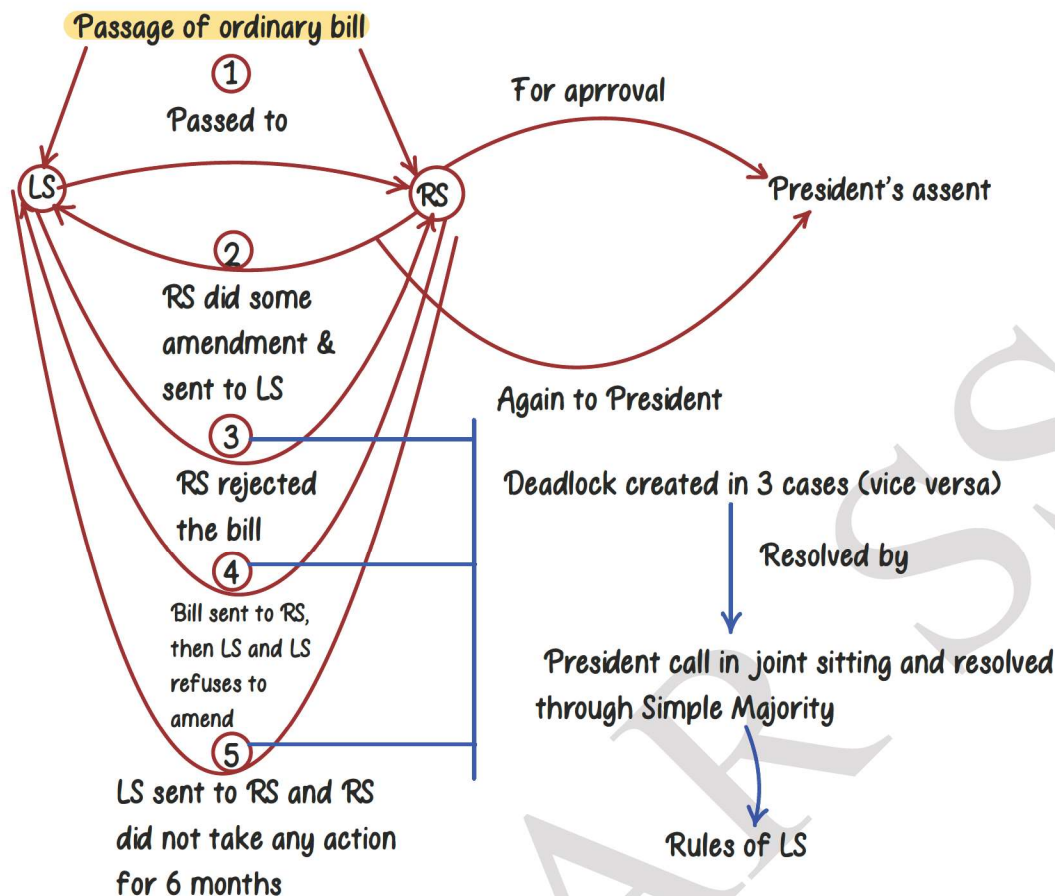
• **Art 107:** Provisions as to introduction and passing of bills

A bill may originate in either House of the Parliament



• **Art 108:** Joint sitting of both Houses

- 1 — If a bill passes by one house of parliament but is rejected by other house and a period of 6 months has elapsed from the date of the Bill's introduction in Parliament, then the President may summon a Joint Session of both Houses of Parliament to resolve the disagreement
- 2 — The procedures for such a Joint Session are to be regulated by rules framed by Speaker of Lok Sabha



3 Joint Sitting on

- Dowry Prohibition Bill (1960)
- Banking Services Commission Bill (1977)
- Prevention of Terrorism Bill (2002)

Presided by Speaker of LS/Deputy speaker of LS/Deputy Chairman of RS

→ **Chairman of RS can never preside joint sitting, Why?**

- Because he is not a member of any house

• **Art 109: Special procedure in respect to Money Bill**

No deadlock possible

Origin: LS

Goes to

Cannot amend money bill, but can recommend amendment

← **RS (has 14 days to react)**

- Has limited powers w.r.t to Money Bill
- No provisions of joint sitting in case of Money Bill

Under what circumstances a Bill lapses?

- A Bill pending in Parliament shall not lapse by reason of the prorogation of the Houses
- A Bill pending in the Council of States which has not been passed by the House of the People shall not lapse on a dissolution of the House of the People
- A Bill which is pending in the House of the People, or which having been passed by the House of the People is pending in the Council of States, shall, subject to the provisions of Art 108, lapse on a dissolution of the House of the People

• Provision of Joint Sitting taken from Australia

Art 110: Definition of Money Bill

1. A Money Bill has following Provisions:-

- The imposition, abolition, remission, alteration or regulation of any tax
- The regulation of the borrowing of money
- The custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of money from any such Fund
- The appropriation of money out of the Consolidated Fund of India:
- The declaring of any expenditure to be expenditure charged on the Consolidated Fund of India
- The receipt of money on account of the Consolidated Fund of India or the public account of India or the custody or issue of such money or the audit of the accounts of the Union or of a State
- Any matter incidental to any of the matters specified in sub-clauses (a) to (f)

A bill is not considered as money bill if it provides:-

- For the imposition of fine
- Other pecuniary penalties
- For the demand of payment of fees for license of fees for service rendered
- By reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes

Art 111: Assent to Bills → Bill passed by the Parliament → Presented to President for his assent

Negative Powers → Veto Power

- Gives his assent
- Return the bill for reconsideration (but not Money Bill)
- He has to sign the reconsidered bill by the Parliament

- Speaker of Lok Sabha decides if a bill is a Money Bill or not

Absolute Veto: Bill rejected → Cannot be rejected 2nd time

Suspensive Veto: Bill returned → Assent is mandatory in returned bill

Pocket Veto: No reaction

Qualified Veto: Not available to Indian President (only to USA)

- No time limit given
- It was first used by Gyani Zail Singh

- No veto can be used in case of Constitutional Bill: 27th CA (Art 368)

Not available in case of Money Bill, why?

* Pocket of Indian President is deeper than USA President (time limit)

- Money Bill are brought prior recommendation to President

Art 112: Annual Financial Statement

Budget → the term is not mentioned in the Constitution

- President shall cause to be laid before both the Houses of the Parliament, a statement of estimated receipts and expenditure

Budget in the name of President → Financial expenses and revenues of government — Annual Financial Statement

Meaning: Income

• This Annual Financial Statement expenditure shall be shown in two types:

Charged on Consolidated Fund of India

- Not votable (due to salary of President, HC judges, etc)

Made from Consolidated Fund of India

- Votable (only in LS)

*RS has no power to vote on budget

• **Art 113:** Procedure in Parliament with respect to estimates

Voting in Consolidated Fund of India and only in LS
(LS has power to vote)

No demand for a grant shall be made except on
recommendation of President

Demand for fund in the name of President → Voting → Grant

• **Art 114:** Appropriation Bills

Demand for grant

No voting is allowed in
Appropriation Bill

• Without passing this bill, the government cannot take out money from Consolidated Fund of India → no voting is allowed in Appropriation Bill

• During voting, the Parliamentarians can pass 'Cut motion'

To reject

• **Policy cut:** Reduced to Rs 1

• **Token cut:** Reduced to Rs 100

• **Economy cut:** Reduced by specified amount

If passed, amounts to defeat
of the government

• **Art 115:** Supplementary, additional or excess grant

• **Art 116:** vote on account, votes of credit and exceptional grants

• **Vote on credit:** The financial grant given to the Executive from resources of India to meet urgent financial requirements, whose details cannot be shared ordinarily in a budget (blank check given to Executive by LS)

• **Vote on account:** It is a formality done by the ruling government by taking permission of LS to spend some funds from Consolidated Funds

• **Exceptional grants:** They are special provisions made by the Parliament to meet specific expenses that are not covered under the regular budgetary allocation

• Different types of funds

• Consolidated Fund of India (Art 266)

- Tax
- Revenue

• Public Account of India (Art 266)

- Remittance — Public fund deposits
- Judicial deposits

In hands of Executive, not Parliament

• Contingency Fund of India (Art 267)

- In hands of President, but run by President and Finance Secretary

Public purse

• Art 117: Special provisions to Financial Bills

All Money Bills are Financial Bill, but vice versa is not true

1 — Prior recommendation of President

2 — Same as Ordinary Bill

• Art 118: Rules of procedure

- Each House of Parliament may make rules for regulating its procedure and conduct of its business

• Art 119: Regulation of law of procedure in Parliament in relation to Financial Business

• Art 120: Language to be used in Parliament

Business of Parliament shall be transacted in English and Hindi

Notwithstanding anything in Part XVII are subject to provisions of Article 348

Shall be removed after 15 yrs (but still continuing)

Presiding officer may permit any member to express himself in mother tongue

• Art 121: Restriction on discussion in Parliament

In the courts (SC or HC)

- No discussion regarding the conduct of judges shall be done in the Parliament

• Art 122: Court not to inquire into the proceedings of Parliament

• Art 123: Power of President to promulgate Ordinances during recess

Gap between sessions

1. The validity of any proceedings in Parliament shall not be called in question on ground of any alleged irregularity of procedure
2. Any business conduct of Officers of MPs in Parliament is not subjected to jurisdiction in any court

Legislative power of the President

Law making power

President in Centre (Art 123)

Governor in State (Art 213)

→ Can ordinance be promulgated when only one house is not in session?

- Yes, a bill can become Act when passed from both the Houses and with the assent of President, if both the Houses are not there, then no act; however, in case of either one of the House not in session, Ordinance can be brought

• Max life of Ordinance?

— Approve

— Disapprove

— No reaction (6 months and 6 weeks), How?

• Max gap between session — 6 months (break between two Houses)

• When no action is taken — 6 weeks

• Case regarding Ordinance → DC Wadhwa Case

Art 123

1. When both Houses of Parliament are not in session, he may promulgate such Ordinances as the circumstances appear to him to require
2. An Ordinance promulgated under this article shall have the same force and effect as an Act of Parliament, but every such Ordinance—
 - a. Shall be laid before both Houses of the Parliament → shall cease to operate at the expiration of 6 weeks from the reassembly of Parliament, or,
 - b. May be withdrawn at any time by the President
3. If and so far as an Ordinance under this article makes any provision which Parliament would not under this Constitution be competent to enact, it shall be void

STATE LEGISLATURE



Part VI of Indian Constitution

Chapter I: General (Art 152)

Chapter II: State Executive (Art 153-167)

Chapter III: State Legislature (Art 168-212)

Chapter IV: Legislative power of the Governor (Ordinance) (Art 213)

Chapter V: High Courts (Art 214-232)

Chapter VI: Subordinate Courts (Art 233-237)

Article 153: Governor of States

- There shall be a Governor for each State

Article 154: Executive Power of State

- The executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Constitution

Article 155: Appointment of Governor

- The Governor of a state shall be appointed by the President by warrant under his hand and seal

Article 156: Term of Office of Governor

(1) The Governor shall hold office during the pleasure of the President

(2) The Governor may, by writing under his hand addressed to the President, resign his office

(3) Subject to the foregoing provisions of this article, a Governor shall hold office for a term of 5 years from the date on which he enters upon his office

Article 157: Qualifications for Appointment as Governor

- No person shall be eligible for appointment as Governor, unless he is a citizen of India and has completed the age of 35 years

Article 158: Conditions of Governor's Office

(1) Governor shall not be a member of any House in the Parliament or State Legislature, if so, he must vacate his seat before entering office of Governor

(2) Governor shall not hold any office of profit

• **7th CA, 1956:** Two or more states can have a common Governor

(3) The Governor shall be entitled without payment of rent to the use of his official residences and shall be also entitled to such emoluments, allowances and privileges as may be determined by Parliament by law

(3A) Where the same person is appointed as Governor of two or more States, the emoluments and allowances payable to the Governor shall be allocated among the States in such proportion as the President may by order determine

(4) The emoluments and allowances of the Governor shall not be diminished during his term of office

7th CA, 1956: Two or more states can have common Governor

Article 159: Oath or Affirmation by the Governor

Governor has to take oath in the presence of Chief Justice of high court. If he is absent, then governor has to take oath in presence of seniormost judge of high court available

Article 160: Discharge of Functions of Governor in Certain Contingencies

The president of India can appoint someone to take over the functions of a state's governor in certain situations

Article 161: Power of Governor to Grant Pardons, etc., and to Suspend, Remit or Commute Sentences in Certain Cases

- The Governor of a State shall have the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence

Difference in pardoning power of President and Governor

1. Governor cannot pardon death sentence
2. Governor cannot use pardoning power against a sentence handed down by Martial Court

Article 162: Extent of Executive Power of State (TRICK: Art 73 (Part V) + Art 89: Art 162)

The executive power of a state extends to matters where the state's Legislature has the power to make laws

Article 163: Council of Ministers to Aid and Advise Governor (TRICK: Art 74 (Part V) + Art 89: Art 163)

↓
Advice of Council of Ministers is not binding on Governor

Article 164: Other Provision as to Ministers (TRICK: Art 75 (Part V) + Art 89: Art 164)

(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule

(4) A Minister who for any period of 6 consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister

(5) The salaries and allowances of Ministers shall be such as the Legislature of the state may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule

Article 165: The Advocate-General for the State (TRICK: Art 76 (Part V) + Art 89: Art 165)

(1) Appointment

(2) Duty

(3) Hold office till the pleasure of Governor

Article 166: Conduct of Business of Government of a State (TRICK: Art 77 (Part V) + Art 89: Art 166)

Article 167: Duties of Chief Minister as respects the Furnishing of Information to Governor, etc (TRICK: Art 78 (Part V) + Art 89: Art 167)

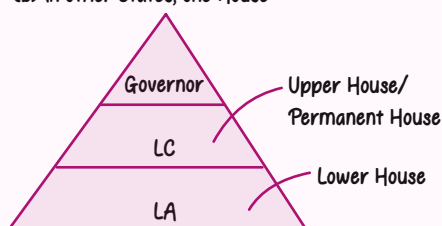
COMs → CM → Governor

Article 168: Constitution of Legislatures in States (TRICK: Art 79 (Part V) + Art 89: Art 168)

(1) For every State there shall be a Legislature which shall consist of the Governor

(a) In the States of Andhra Pradesh, Bihar, Telangana, Maharashtra, Karnataka and Uttar Pradesh, two Houses;

(b) In other States, one House



• All states in India do not have Legislative Council, only 6 states do

TRICK to Remember — KABUTM

- **K**: Karnataka
- **A**: Andhra Pradesh
- **B**: Bihar
- **U**: Uttar Pradesh
- **T**: Telangana
- **M**: Maharashtra

(2) Where there is two houses one shall be known as Legislative Council and other is Legislative Assembly; If there is only one house it must be Legislative Assembly

Article 169: Abolition or Creation of Legislative Councils in States (TRICK: Art 80 (Part V) + Art 89: Art 169)

(1) Under article 168, Parliament can create or abolish Legislative Council of a state, after passing a resolution from Legislative Assembly (LA) with 2/3rd of present and voting members of LA, if the Legislative Assembly of the State passes a resolution to that effect by a majority of the total membership of the Assembly and by a majority of not less than 2/3rd of the members of the Assembly present and voting

• No such law as aforesaid shall be deemed to be an amendment of this Constitution for the purposes of article 368

Article 170: Composition of the Legislative Assemblies (TRICK: Art 81 (Part V) + Art 89: Art 170)

(1) Subject to the provisions of Art 333, the Legislative Assembly of each State shall consist of not more than 500, and not less than 60, members chosen by direct election from territorial constituencies in the State

(2) For the purposes of clause (1), each State shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the State

• **Exception:** Minimum number of seats in Legislative Assemblies of Sikkim, Goa, and Arunachal Pradesh is 30

(3) The total number of seats in the Legislative Assembly of each State and the division of each State into territorial constituencies shall be readjusted, upon completion of each Census

Article 171: Composition of the Legislative Councils (TRICK: Art 82 (Part V) + Art 89: Art 171)

(1) The total number of members in the Legislative Council of a State having such a Council shall not exceed 1/3rd of the total number of members in the Legislative Assembly of that State — Not less than 40

(2) Until Parliament by law otherwise provides, the composition of the Legislative Council of a State shall be as provided in clause (3)

(3) Of the total number of members of the Legislative Council of a State:—

(a) 1/3rd elected by electorate consisting members of Municipalities, District Boards & other local authorities

(b) 1/12th - Person residing in the state who have been for at least 3 years graduates of any universities in India

(c) 1/12th - Person engaged in teaching for at least 3 years

(d) 1/3rd - By members of Legislative Assembly

(e) Remaining 1/6th nominated by Governor - person having special knowledge or practical experience in Literature, Science, Art, Co-operative movement & Social Science — Li S A S + Cooperative movement

Article 172: Duration of State Legislatures (TRICK: Art 83 (Part V) + Art 89: Art 172)

(1) Every Legislative Assembly of every State, unless sooner dissolved, shall continue for 5 years from the date appointed for its first meeting

(2) The Legislative Council of a State shall not be subject to dissolution, but as nearly as possible 1/3rd of the members thereof shall retire as soon as may be on the expiration of every second year

Article 173: Qualification for Membership of the State Legislature (TRICK: Art 84 (Part V) + Art 89: Art 173)

• A person shall not be qualified to be chosen to fill a seat in the Legislature of a State unless he:—

(a) Is a Citizen of India

(b) Is in the case of a seat in the Legislative Assembly, not less than 25 years of age and, in the case of a seat in the Legislative Council, not less than 30 years of age

(c) Possesses such other qualifications as may be prescribed in that behalf by or under any law made by Parliament

Article 174: Sessions of the State Legislature, Prorogation and Dissolution (TRICK: Art 85 (Part V) + Art 89: Art 174)

(1) The governor may summon house of the legislature to meet at such time as he thinks fit, but 6 month shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session

(2) The Governor may from time to time:-

(a) Prorogue the House or either House

(b) Dissolve the Legislative Assembly

Article 175: Right of Governor to Address and Send Messages to the House or Houses (TRICK: Art 86 (Part V) + Art 89: Art 175)

(1) Governor may address Legislative Assembly or Legislative Council (if there) or Both Houses Assembled together

(2) The Governor may send messages to the House or Houses of the Legislature of the State, whether with respect to a Bill then pending in the Legislature

Article 176: Special Address by the Governor (TRICK: Art 87 (Part V) + Art 89: Art 176)

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly and Council (if there)

(2) Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address

Article 177: Rights of Ministers and Advocate General as respects the Houses (TRICK: Art 88 (Part V) + Art 89: Art 177)

Every Minister and the Advocate-General for a State shall have the right to speak in or take part in the proceedings of, the Legislative Assembly or Council (if there), but cannot vote

Article 178: The Speaker and Deputy Speaker of the Legislative Assembly (TRICK: Art 89 (Part V) + Art 89: Art 178)

Article 179: Vacation and Resignation of, and Removal from, the offices of Speaker and Deputy Speaker (TRICK: Art 90 (Part V) + Art 89: Art 179)

Article 180: Power of the Deputy Speaker or other Person to perform the Duties of the Office of, or to act as, Speaker (TRICK: Art 91 (Part V) + Art 89: Art 180)

Article 181: The Speaker or the Deputy Speaker not to Preside while a Resolution for his Removal from Office is under Consideration (TRICK: Art 92 (Part V) + Art 89: Art 181)

Article 182: The Chairman and Deputy Chairman of the Legislative Council (TRICK: Art 93 (Part V) + Art 89: Art 182)

Article 183: Vacation and Resignation of, and Removal from, the Offices of Chairman and Deputy Chairman (TRICK: Art 94 (Part V) + Art 89: Art 183)

Article 184: Power of the Deputy Chairman or other Person to Perform the Duties of the Office of, or to act as, Chairman (TRICK: Art 95 (Part V) + Art 89: Art 184)

Article 185: The Chairman or the Deputy Chairman not to Preside while a Resolution for his Removal from office is under Consideration (TRICK: Art 96 (Part V) + Art 89: Art 185)

Article 186: Salaries and allowances of the Speaker and Deputy Speaker and the Chairman and Deputy Chairman (TRICK: Art 97 (Part V) + Art 89: Art 186)

Article 187: Secretariat of State Legislature (TRICK: Art 98 (Part V) + Art 89: Art 187)

Article 188: Oath and Affirmation by Members (TRICK: Art 99 (Part V) + Art 89: Art 188)

Article 189: Voting in Houses, Power of Houses to act notwithstanding Vacancies and Quorum (TRICK: Art 100 (Part V) + Art 89: Art 189)

Article 190: Vacation of Seats (TRICK: Art 101 (Part V) + Art 89: Art 190)

Article 191: Disqualification of Membership (TRICK: Art 102 (Part V) + Art 89: Art 191)

Article 192: Decision on Questions as to Disqualification of Members (TRICK: Art 103 (Part V) + Art 89: Art 192)

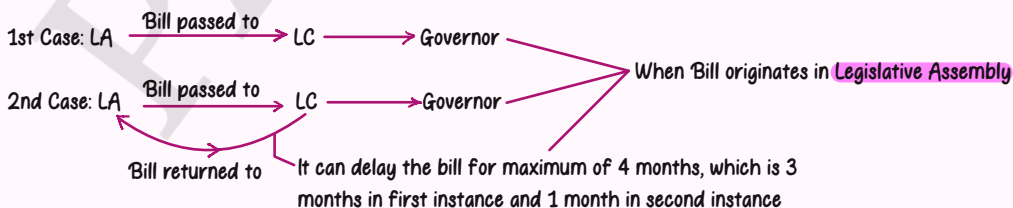
Article 193: Penalty for Sitting and Voting before making Oath or Affirmation under Article 188 or when not Qualified or when Disqualified (TRICK: Art 104 (Part V) + Art 89: Art 193)

Article 194: Powers, Privileges, etc., of the Houses of Legislatures and of the Members and Committees thereof (TRICK: Art 105 (Part V) + Art 89: Art 194)

Article 195: Salaries and Allowances of Members (TRICK: Art 106 (Part V) + Art 89: Art 195)

Article 196: Provisions as to Introduction and Passing of Bills (TRICK: Art 107 (Part V) + Art 89: Art 196)

• In case of Ordinary Bills, Legislative Assembly has more power in comparison to Legislative Council



- When a bill originates in the Legislative Council, and the Legislative Assembly, says no, the bill lapses, and there is no provision of Joint Sitting in Part VI

Article 197: Restriction on powers of Legislative Council as to Bills other than Money Bills (TRICK: Art 108 (Part V) + Art 89: Art 197)

- The article states that if a bill, other than a money bill, has been passed by the Legislative Assembly and transmitted to the Legislative Council, and the Council has certain restrictions, it can:-

(1) Rejects the bill; or

(2) Does not pass the bill within a period of three months from the date of its receipt; or

(3) Passes the bill with amendments to which the Legislative Assembly does not agree (The legislative Council cannot further delay or block a bill, and the decision of Legislative Assembly must be considered final)

Article 198: Special Procedure in Respect of Money Bills (TRICK: Art 109 (Part V) + Art 89: Art 198)



- A bill can only originate in LA
- LC only has recommendatory power for amendments, it cannot make any recommendation on Money Bill (However, if the bill is passed by Legislative Assembly and sent to legislative council for review, the Legislative Council has 14 days to return the bill to LA with recommendations)

Article 199: Definition of Money Bill (TRICK: Art 110 (Part V) + Art 89: Art 199)

Article 200: Assent to Bills (TRICK: Art 111 (Part V) + Art 89: Art 200)

Veto Power

- **Absolute Veto:** Bill rejected — Cannot be rejected for the 2nd time
- **Suspensive Veto:** Bill returned — Assent is mandatory in returned bill (Not in case of Money Bill)
- **Pocket Veto:** No reaction

Article 201: Bills Reserved for Consideration

- A governor can reserve the bill for the President $\leftarrow \rightarrow$ State Legislature
No work of Governor here

Article 202: Annual Financial Statement (TRICK: Art 112 (Part V) + Art 90: Art 202)

Article 203: Procedure in Legislature with Respect to Estimates (TRICK: Art 113 (Part V) + Art 90: Art 203)

Article 204: Appropriation Bills (TRICK: Art 114 (Part V) + Art 90: Art 204)

Article 205: Supplementary, Additional or excess Grants (TRICK: Art 115 (Part V) + Art 90: Art 205)

Article 206: Votes on Account, Votes of Credit and Exceptional Grants (TRICK: Art 116 (Part V) + Art 90: Art 206)

Article 207: Special Provisions as to Financial Bills (TRICK: Art 117 (Part V) + Art 90: Art 207)

Article 208: Rules of Procedure (TRICK: Art 118 (Part V) + Art 90: Art 208)

Article 209: Regulation by Law of Procedure in the Legislature of the State in relation to Financial Business (TRICK: Art 119 (Part V) + Art 90: Art 209)

Article 210: Language to be used in the Legislature (TRICK: Art 120 (Part V) + Art 90: Art 210)

Article 211: Restriction on Discussion in the Legislature (TRICK: Art 121 (Part V) + Art 90: Art 211)

Article 212: Courts not to Inquire into Proceedings of the Legislature (TRICK: Art 122 (Part V) + Art 90: Art 212)

Article 213: Power of Governor to Promulgate Ordinances during Recess of Legislature (TRICK: Art 123 (Part V) + Art 90: Art 213)



Emergency Provisions

Part XVIII; Art 352-360

*State Emergency not written in the Constitution

Three types of Emergency

- National Emergency
 - State Emergency
 - Financial Emergency
- President's Rule applicable

National Emergency

Art 352

Max time: can be extended for indefinite period

On grounds of: War, external aggression, armed rebellion

Approval: 1 month by Special Majority. If approved by the President, it can initially be imposed for six months

LS

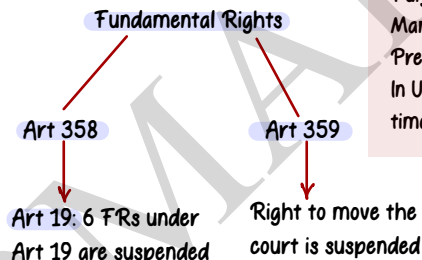
RS

Re-approval: 44th CA

Revoked by: President

LS can revoke National Emergency only by Simple Majority

Effects



Suspension of FRs during National Emergency taken from Weimar Constitution of Germany

Use of Article 356

For the 1st time President Rule was imposed in Punjab in 1951

Manipur has undergone maximum number of President Rule

In Uttar Pradesh, President Rule was imposed 9 times

*Provisions of National Emergency taken from GOI ACT 1935

Proclaim: President takes Cabinet's approval

Term introduced under Art 352 by 44th CA

Rights under Art 20 and 21 can never be suspended during National Emergency

** If there is external aggression in any part of India, national emergency can be proclaimed

** The President of India can declare a National Emergency before war or external aggression, if they are satisfied that the safety of India is threatened

· Rights under Art 19 cannot be suspended when National Emergency is imposed on grounds of Armed Rebellion.

Armed Rebellion — 44th CA

Not beyond judicial review

· The term Internal Disturbances changed to Armed Rebellion under 44th CA

Executive

Centre can give directions to State on any matter

Legislature

Parliament can make law on any subject of State list subjects

Can remain for

6 months

Minerva Mill Case

· Imposition of NE is subjected to Judicial Review

Life of LS

· Can be extended for 1 year → Approval required every year

· Max. time: Indefinite period

· National Emergency imposed in India → 3 times

· 1962: China War (Oct 1962-1968) — Then PM: J L Nehru

· 1971: India-Pakistan War — Then PM: Indira Gandhi

· 1975: Internal Disturbances (during Indira Gandhi); Then President: Fakhruddin Ali Ahmed

· 25th June: Samvidhan Hatya Diwas

Art 355: Imposes a duty of Centre to ensure that the government of every State is run in accordance with provision of the Constitution

Also known as President's Rule/State Emergency/Constitutional Emergency

Art 356: President's Rule → State Emergency in case of failure of Constitutional machinery

— On grounds: Empowers the President, if the government of the State cannot be carried in accordance to the provisions of the Constitution

· When the State fails to comply with any direction from Centre

— Proclaim: President of India → Can be done only after cabinet approval (44 CA)

— Approval: From the Parliament 2 months + Simple Majority

· If approved: continues for 6 months

· Max time: 3 yrs

Repeated approval: 44th CA

· Article 355 act as the foundation for the centre to intervene in a state under Article 356 when necessary, creating a clear correlation between two provisions

— Revocation: Any time by the President, no need of Parliamentary approval

· If LS passes a resolution through Simple Majority

Effects

- No effects on Fundamental Rights
- Council of Ministers dismissed
- State Legislature is suspended/dissolved

→ S. R. Bommai v. Union of India case

Article 365 : Whenever a state fails to comply with or to give effect to any direction from centre

Approval

- Must be approved by both the Houses of Parliament with a simple majority within 2 months from the date of its issue
- If approved it continues for 6 months and can be extended for a maximum period of 3 Years
- Thoughts of B. R. Ambedkar on Article 356: He stated that it should be used as a last resort and as a means of final recourse

S. R. Bommai Case (1994)

- President rule is subject to Judicial Review

- National Emergency, if approved by both the Houses, it can continue for 6 months and can be extended to an indefinite period with an approval of Parliament for every 6 months

Committees that deal with Centre-State Relations

- Sarkaria Commission: 1983
- Punchhi Commission: 2007

Financial Emergency

Proclamation

- Article 360 empowers President to proclaim a Financial Emergency if he is satisfied that financial stability of India or any of its part has been threatened
- It is approved by the Parliament within 2 months by a Simple Majority (same as President's Rule)
- No Financial Emergency has been imposed till now
- During the Financial Emergency, the President can ask the States to reduce the salaries and allowances of all or any class of person in government services

Parliamentary Committees

- The Committee scrutinises and reports to the House whether the powers to make regulations, rules, sub-rules, by-laws, etc.

Permanent Committee

- Standing Committee
- Cannot be scrapped
- Constituted periodically

Temporary Committee

- Ad Hoc Committee
- Can be scrapped

Not been setup for Govt. Assurance

Financial Committee

Public Accounts Committee

Estimates Committee

Committee on Public Undertakings

Similarity: No Minister can be a member (Only private members)

Term of members: 1 yr

Election: Proportional Representation + STV

Same for President, RS, VP

- Appointed/elected by the House or nominated by Speaker/Chairman
- Work under the direction of speaker/chairman

1st Railway Minister of independent India

Differences

Public Accounts Committee

- GOI ACT 1919, 1921
- Strength: 22 — 15 (LS)
7 (RS)
- Function: To examine the audit reports of CAG

Estimates Committee

- Was formed on recommendation of John Matthai
- Constituted in 1950
- Strength: 30 members + all from LS
- RS has no representation
- Function: To examine estimates included in budget
- Chairman is from LS

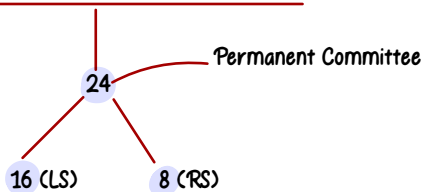
Committee on Public Undertakings

- Established: 1964
- On recommendation of Krishna Menon Committee
- Strength: 22 — 15 (LS)
7 (RS)
- Chairman is from LS
- Function: To examine reports and accounts of Public Undertakings

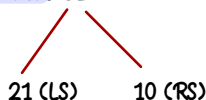
25 — 1956 —> 30

15 — 1974 —> 22

Departmental related Standing Committees



Members: 31



Committee on Private Members Bill

Chairman: Deputy Speaker of LS

Speaker is Chairman of:

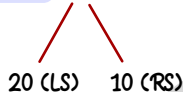
- Business Advisory Committee
- Rules Committee
- General Purpose Committee

Deputy Speaker is a member of: Committee on Private Members Bill (He automatically becomes the Chairman of any Committee he/she is appointed as a member of)

Official Language Act 1963

Official Language Committee 1976

Members: 30



Constitutional Amendments

Amendments: Part XX ; Art 368

The Parliament can amend anything except Basic Structure of Constitution

Only 2 types of Amendments

Keshavnanda Bharti Case 1973

Not mentioned in Constitution

Procedure

It can be introduced by Minister or a Private member

Introduction: The Constitutional Amendment Bill can be introduced in either House of the Parliament (LS/RS) but not in State Legislature

It does not require prior permission of the President for introduction

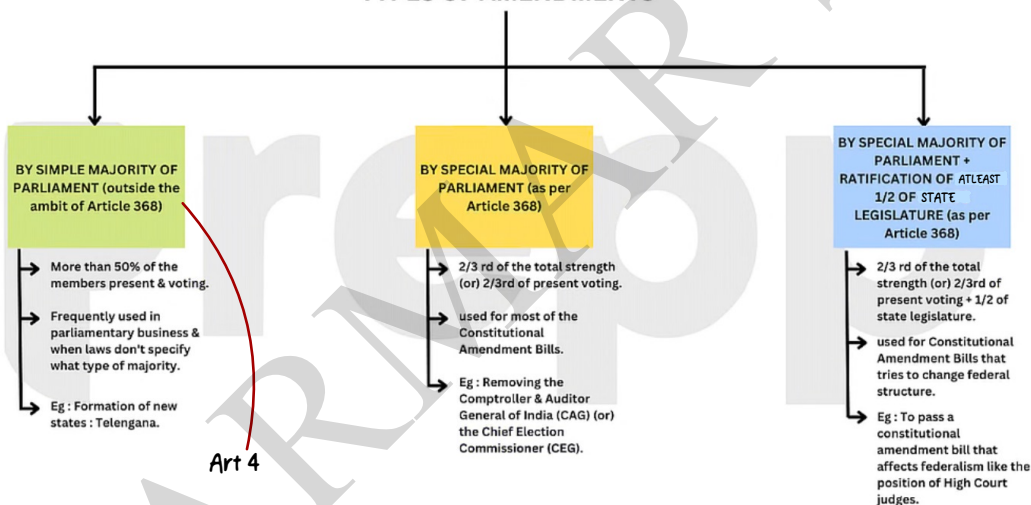
- The bill needs to be passed by Special Majority
- No joint sitting is possible
 - Summoned by: President
 - Presided by: LS Speaker
- The President must give his/her to Constitutional Amendment Bill — No VETO power can be used

Provision: 24th CA, 1971

Comments on Amending Procedure

- This variety of amending process is wise, but rarely found: K. C. Wheare
- The amending process has proved itself one of the most ably conceived aspects of the Constitution: Granville Austin

TYPES OF AMENDMENTS



Art 4

Important Amendments

- 100 CA: India-Bangladesh land boundary agreement
- 101 CA: GST
- 102 CA: National Commission for Backward Classes (NCBC) Constitutional states
- 103 CA: Economically Weaker Section (EWS) 10% reservation given
- 104 CA: Removal of Anglo Indians nomination from Lok Sabha and state assemblies
- 105 CA: It restored the power of state government to identify the Socially and Educationally Backward Classes (SEBCs)
- 106 CA: 1/3rd seats in LS/LA reserved for women

Special Majority: In Parliament
State ratification: Through Simple Majority

1. Admission or establishment of new states.
2. Formation of new states and alteration of areas, boundaries or names of existing states.
3. Abolition or creation of legislative councils in states.
4. Second Schedule—emoluments, allowances, privileges and so on of the president, the governors, the Speakers, judges, etc.
5. Quorum in Parliament.
6. Salaries and allowances of the members of Parliament.
7. Rules of procedure in Parliament.
8. Privileges of the Parliament, its members and its committees.
9. Use of English language in Parliament.
10. Number of puisne judges in the Supreme Court.
11. Conferment of more jurisdiction on the Supreme Court.
12. Use of official language.
13. Citizenship—acquisition and termination.
14. Elections to Parliament and state legislatures.
15. Delimitation of constituencies.
16. Union territories.
17. Fifth Schedule—administration of scheduled areas and scheduled tribes.
18. Sixth Schedule—administration of tribal areas.

All through Simple Majority

Special Majority

- 2/3rd present and voting + 50% of total membership
- Fundamental Rights
- DPSP
- Fundamental Duties

Special Majority with Ratification of at least Half of the States

- Election of President and its manner — Elected MLAs + MPs
- Any list in 7th Schedule and its manner — Subjects
- Representation of states in the Parliament — RS or LS
- SC or HC
- Distribution of LS powers
- Art 368

SUPREME COURT AND HIGH COURT



Supreme Court

- Art 124-147
- Part V

Art 124

① — Strength of judges

• Originally: SC strength: 1 CJI + 7 — 8 judges

• At present: 32 judges

• *Maximum possible strength is 34 judges (1 CJI + 33 judges)

— Establishment and constitution of SC

• Appointment: Judges are appointed by President after consultation with existing SC and HC judges

• Tenure: Judges serve until the age of 65

Basic Pointers

- Judiciary in India is integrated Judiciary is independent

Supreme Court

- The Supreme Court replace the Federal Court and the Judicial Committee of Privy Council after India gained independence
- 1st sitting: 28 Jan 1950

Federal Court

- Established on: 1937 under the provisions of GOI Act 1935

Judges Case

1st Judges Case: S. P Gupta Case (1992)

- SC stated that the President must take recommendation from CJI of India, which is not binding on the executive, granting the government significant discretion

2nd Judges Case: 1993

- The SC introduced the Collegium System, holding that "consultation" really meant "concurrence". It added that it was not the CJI's individual opinion, but an institutional opinion formed in consultation with two senior most judges in SC and the decision was binding on President

3rd Judges Case: 1998

- SC on President's reference expanded the Collegium to a five member body, comprising the CJI and four of his senior most colleagues — Decision of the Collegium was binding on President

4th Judges Case: 2015

- SC declared 99th CA as unconstitutional and null and void, and replace the NJAC with Collegium System

The Parliament replaced the collegium system by National Judicial Appointments Commission (NJAC) through 99th CA to provide recommendation to the President

- 2 (a): A Judge may, by writing under his hand, addressed to the President, resign his office
- 2 (b): Judges to be removed in manner provided in clause (4)

• 1st female judge of SC: Justice Fathima Beevi

• 1st female Chief Justice of SC: No one till now

③ Qualification

- (a) Has been 5 years a judge of HC or two or more such courts
- (b) Has been at least 10 years an advocate of a HC or or more such courts and
- (c) Is a distinguish jurist in the opinion of the President

Citizen of India

④ Removal of a judge

- Removal of a judge of SC on ground of misbehaviour or incapacity

Removal Method

Order of President

Passed by an address of each House of the Parliament

Special Majority (2/3rd of present and voting members)

Removed

- ⑤ The parliament can create laws to establish procedure for investigating and providing judge's misconduct or incapacity under clause (4)
- ⑥ They take oath before the President
- ⑦ A former SC judge cannot practise law in any court or before any authority within territory of India

Art 125

- Salaries: Determined by Parliament
- Law on privileges and salaries: Determined by President

Art 126

- Appointment of acting Chief Justice ——— When the position of Chief Justice is vacant, or if the Chief Justice is unable to perform their duties due to absence or other reasons, the President appoints another judge from SC to carry out responsibilities of Chief Justice

Art 127

- Appointment of Ad Hoc Judges
- The CJ of India can appoint a qualified HC judge as temporary SC judge when there aren't enough judges to hold a session
- He/she may have all the powers, jurisdiction, privileges of SC judge during this period

Art 128

- Attendance of retired judges at sittings of SC

On advice of President

Art 129

- Supreme Court to be court of record — It means that its decision is preserved as legal standards, and it has the authority to punish for "contempt of itself"

Art 130

- Seat of Supreme Court

Constitution declares Delhi as a seat of SC

→ If CJI wants to declare any other seat of SC, other than Delhi, it has to take President's permission

Refers to Court's authority to penalise action that disrespects or disobey its orders

Art 131

- Original jurisdiction of SC → Also exclusive (No other court can deal)

SC has the power to directly hear cases, rather than through lower courts

Article 131A

- It was introduced by 42nd CA, 1976, which granted SC exclusive authority to determine the constitutional validity of Central laws
- However, this was repealed by 43rd CA, 1977

Disputes

- Between GOI and one or more states
- Between GOI and any state or state one side or one or more state on other side
- Between two or more state

Art 132

- Appellate jurisdiction of SC by way of appeal from HC in certain case

In Constitutional matters

Art 133

- Appellate jurisdiction of SC in civil matters (property, marriage, divorce)

- Art 134:** Appellate jurisdiction of Supreme Court in regard to criminal matters

Art 135

- Jurisdiction and powers of federal court under existing law to be exercisable by the Supreme Court

Art 136

Not a privilege

- Special leave to appeal by SC

A person can approach SC if no proper justice granted in lower court

Art 137

- Review of judgements or orders by SC

SC has power to review his own orders

Art 138

- Parliament by law can enlarge the jurisdiction of SC

Art 139

- SC has the power to issue directions, orders or writs, including writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo warrant and Certiorari, or any of them, for any purposes other than those mentioned in clause (2) of Art 32

Art 140

- Ancillary powers of SC

Can support or help Legislature to make law better

Art 141

- Law declared by SC to be binding on all courts

Art 142

- Enforcement of decree and orders of SC

Violation of separation of power → not strict in India

eg: in Bhopal Gas Tragedy, December 3, 1984, which was caused due to Methylisocyanate (Company: Union Carbide)

SC used Art 142 and passed certain decree

- Judicial Activism:** The exercise of the power of judicial review to set aside government acts

Art 143

- Power of President to consult SC

Advisory jurisdiction

President can go to SC:

- If pre-constitutional matter → SC advice is mandatory, but not binding on President
- If matter of general importance → SC advice is not binding

TRICK

- **SC:** Art 124 — SC ne
- **S:** Art 125 — Salaries
- **A:** Art 126 — Acting Chief Justice
- **A:** Art 127 — Ad Hoc term
- **R:** Art 128 — Retired judges attendance
- **C:** Art 129 — Court of record ko
- **Seat:** Art 130 — Delhi as a seat of SC
- **Offer:** Art 131 — Original jurisdiction ka
- **Art 140:** Ancillary powers
- **Art 141:** Binding Law
- **Art 142:** Complete jurisdiction
- **Art 143:** Advisory

High Court

- Part VI
- Art 214–231

Art 214

- Establishment of High Court

Art 215

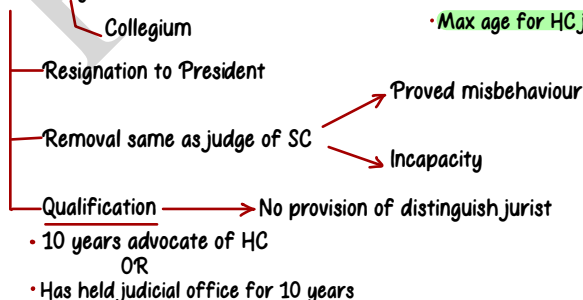
- HC to be court of record

Art 216

- Constitution of HC → One Chief judge, and other such judges as Parliament may decide

Art 217

- Appointment of judges → Done by President's consultation, such other judges as President may feel necessary



Art 144

- Civil and judicial authorities to act in aid of SC

Art 145

- Rule of Court, etc
- SC can set its own set of rules for how it operates, as long as these rules are approved by President and do not conflict with laws made by the Parliament

Art 146

This article outlines the management of SC staff and their expenses

- **Appointment:** CJI of SC appoints the Court's, officers and staff
- **Service Conditions:** CJI set the rules for staff employment terms, such as salaries and leaves
- **Expenses:** The SC operating cost, including staff, salaries, and pensions are paid from Consolidated Fund of India

Art 147

- **Interpretation**
- The Indian Constitution clarifies that when interpreting the constitution, any significant legal question should also be considered:
 - The GOI act, 1935, including its amendments
 - Orders made under 1935 Act
 - The Indian Independence Act 1947
 - Orders issued under 1947 Act

• Allahabad HC estd in: 1866

Basic Pointers (HC)

- **1st HC:** Calcutta HC (1862), **Later:** Bombay HC (1862), Madras HC (1862)
- **1st female judge of HC:** Justice Anna Chandy (Of Kerala)
- **1st female Chief Justice of HC:** Justice Leila Seth (Of Himachal Pradesh)
- **No of High Courts in India:** 25

Art 218

- Application of certain provision (provisions, both in SC and HC)

→ Judges (Inquiry) Act, 1968

Art 219

- Oath and affirmation → Governor

Art 220

- Restriction on practice after being a permanent judge

Restrict formal HC judges from practising law in any court or before any authority in India, except the Supreme Courts and other High Courts

Art 221

- Salaries → Consolidated Fund of States
- (Pension → Consolidated Fund of India)

} Salaries, allowances, leaves and pension rights are determined by Parliament

Art 222

- Transfer of judges → by President after consultation with CJI

Art 223

- Appointment of acting Chief Justice

When the position of Chief Justice is vacant/unable to perform any duties due to absence or other reasons, the President can appoint another judge from the same High Court to act as Chief Justice

Art 225

→ Jurisdiction

- Original → Election of dispute MPs/MLAs by HC
- Appellate
- Writ
- Governor does not need advice

Art 226

- Writ jurisdiction of HC (wider than SC → HC can issue writs on legal + Fundamental Rights)

HC may refuse to issue writ, but SC cannot

Art 227

- Power of jurisdiction over all other courts

Art 228 Transfer of certain cases to High Court**Art 229** Officers and servants and the expenses of High Courts → By CJI of HC**Art 230**

- Extension of jurisdiction of HC to Union Territories → Power of Parliament

→ Andaman and Nicobar — Calcutta HC

→ Lakshadweep — Kochi (Kerala HC)

→ Dadra/Daman — Maharashtra HC

→ Puducherry — Madras HC (Tamil Nadu)

→ Chandigarh — Punjab and Haryana HC

Art 231

- Establishment of common HC for two or more states (7th CA)
- eg: Maharashtra and Goa have a common HC — Maharashtra
- Arunachal, Nagaland, Mizoram, Assam, have a common High Court — Guwahati

Art 233

- Appointment of District judges

By Governor after consulting HC

Art 233A

- Validation of appointments of, and judgements, etc., delivered by, certain district judges

Art 234

- Recruitment of persons, other than judges

Art 235

- The Indian Constitution grants HC supervisory authority over subordinate courts within its jurisdiction

TRICK

- N: ✗
- H: 214 — Estd. of HC
- R: 215 — Court of record
- C: 216 — Constitution
- A: 217 — Appointment
- A: 218 — Application of certain power
- O: 219 — Oath
- R: 220 — Restriction
- E: ✗
- S: 221 — Salary
- T: 222 — Transfer

Comptroller and Auditor-General of India

- **Art 148:** Comptroller and Auditor-General of India
- **Art 149:** Duties, and power of Comptroller and Auditor-General
- **Art 150:** It specifies the accounts of Union and the States
- **Art 151:** Audit Reports
 - **Union Accounts:** CAG submits reports on Union's account to President who then present it to both Houses of the Parliament
 - **State Accounts:** CAG submit reports to respective State Governors who then present it to State Legislature

Panchayat and Municipalities



Evolution of Panchayati Raj

- Balwant Rai Mehta Committee, 1957

Recommendation: 3-tier Panchayati Raj System

- Rajasthan 1st establish Panchayati Raj

At Nagaur, on 2 Oct 1959

- Ashok Mehta Committee, 1977

Proposed: 2-tier Panchayati Raj System

- G.V.K Rao Committee, 1985

Reviewed the working of Constitution in relation to the working of the Panchayats and Municipalities

- L M Singhvi Committee, 1986

Recommendations: The Panchayati Raj institutions should be constitutionally, recognised, protected, and preserved

- Thungon Committee, 1988

- Gadgil Committee, 1988

- 73rd Amendment Act, 1992

Constitutional Amendment

- Introduced through: 73rd Amendment Act, 1992
- Part IX, Article: 243-243O
- Schedule: 11th → 29th Fundamental functions
- 24th April 1993: Enforced
- Then PM: P. V. Narasimha Rao
- 24th April 2010: Panchayati Raj Diwas

ARTICLE - 243→ **Definition / परिभाषा**

"Gram Sabha" means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level.

"ग्राम सभा" का अर्थ है ग्राम स्तर पर पंचायत के क्षेत्र में शामिल गांव से संबंधित मतदाता सूची में पंजीकृत व्यक्तियों से बनी एक संस्था।

Definitions

- (a) **District:** A district in a state
- (b) **Gram Sabha:** A body consisting of persons registered in the electoral rolls within the area of Panchayat at village level
- (c) **Intermediate level:** Level between village and district levels specified by Governor
- (d) **Panchayat:** Any institution of self-government constituted under Art 243B, for rural areas
- (e) **Panchayat Area:** The territorial area of Panchayat
- (f) **Population:** Population as ascertained at last preceding Census
- (g) **Village:** A village specified by the Governor

ARTICLE - 243-A→ **Gram Sabha / ग्राम सभा**

A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide.

एक ग्राम सभा ऐसी शक्तियों का प्रयोग कर सकती है और ग्राम स्तर पर ऐसे कार्य कर सकती है जो राज्य का विधानमंडल कानून द्वारा प्रदान कर सकता है।

↓

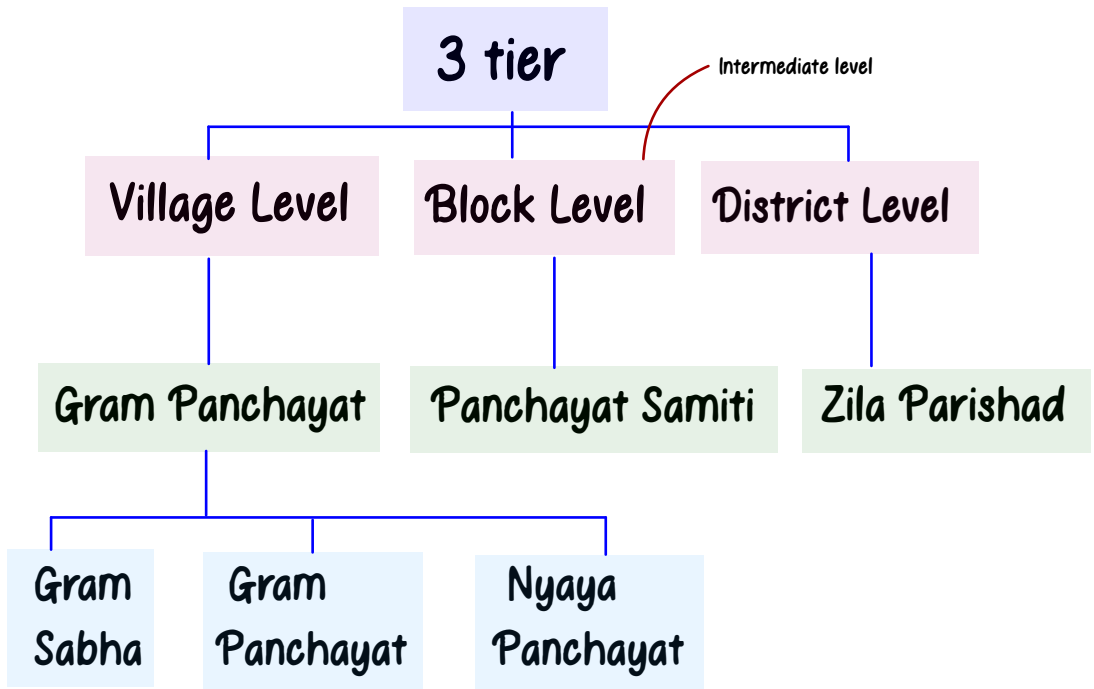
Power and Functions determined by State Legislature

ARTICLE - 243-B→ **Constitution of Panchayats / पंचायतों का गठन**

There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.

इस भाग के प्रावधानों के अनुसार प्रत्येक राज्य में ग्राम, मध्यवर्ती और जिला स्तर पर पंचायतों का गठन किया जाएगा।

- (1) Constitution of 3-tier Panchayati Raj system
- (2) Panchayats at intermediate level not to be constituted in a state having a population not exceeding 20 lakhs



ARTICLE - 243-C

→ Composition of Panchayats / पंचायतों की संरचना

1. All the seats in a Panchayat shall be filled by persons chosen by direct election
2. The Chairperson of a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide

1. पंचायत की सभी सीटें प्रत्यक्ष चुनाव द्वारा चुने गए व्यक्तियों से भरी जाएंगी
2. ग्राम स्तर पर पंचायत के अध्यक्ष का चुनाव उस तरीके से किया जाएगा जैसा राज्य का विधानमंडल कानून द्वारा प्रदान करेगा

Chairman { At }

- District level
- Intermediate level
- Village level

Elected through indirect elections

Elected through direct/indirect elections

ARTICLE - 243-D→ **Reservation of seats / सीटों का आरक्षण****1**

Seats shall be reserved for -

सीटें इनके लिए आरक्षित होंगी -

- a) the Scheduled Castes
- b) the Scheduled Tribes, in every Panchayat proportion to the total number of seats to be filled by direct election in that Panchayat.

- a) अनुसूचित जाति
- b) प्रत्येक पंचायत में अनुसूचित जनजातियों को उस पंचायत में प्रत्यक्ष चुनाव द्वारा भरी जाने वाली सीटों की कुल संख्या के अनुपात में रखा जाता है।

(1) Reservation of seats:-

- (a) Scheduled Caste
 - (b) Scheduled Tribes
- } In proportion of their population

ARTICLE - 243-D→ **Reservation of seats / सीटों का आरक्षण****2**

Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.

प्रत्येक पंचायत में प्रत्यक्ष चुनाव द्वारा भरी जाने वाली सीटों की कुल संख्या में से कम से कम एक तिहाई (अनुसूचित जाति और अनुसूचित जनजाति की महिलाओं के लिए आरक्षित सीटों की संख्या सहित) महिलाओं के लिए आरक्षित होगी।

(2) Not less than 1/3rd of the total number of seats shall be reserved for woman — Reservation on 1/3rd of seats of Panchayati Raj institutions and 1/3rd offices of Chairperson at all level

ARTICLE - 243-E

→ Duration of Panchayats, etc. / पंचायतों की अवधि, आदि।

1

Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

प्रत्येक पंचायत, जब तक कि उस समय लागू किसी कानून के तहत जल्द ही भंग न हो जाए, अपनी पहली बैठक के लिए नियुक्त तिथि से पांच साल तक बनी रहेगी और उससे अधिक नहीं।

(1) **Duration of Panchayats:** A 5-year term, unless dissolved earlier by applicable laws

(3) **Election Timeline**

(a) Before the end of its 5-year term

(b) **Dissolution:** if Panchayat is dissolved before its term ends, election must be held within 6 months of dissolution date (if remaining term is less than 6 months — Election not mandatory)

(4) **Term of reconstitution:** Panchayat formed after early dissolution will serve only for the remainder of original term

ex:

1 Jan 2020 ————— 1 Jan 2025

20 Nov 2024: Less than 6 months — Election not mandatory
(Dissolution)

1 Jan 2024: More than 6 months — Election mandatory
(Dissolution)

Dissolving power: Zila Parishad

New Panchayat formed: will serve remainder of the term

State govt. can dissolve
Zila Parishad

ARTICLE - 243-F

→ Disqualifications for membership / सदस्यता के लिए अयोग्यताएँ

1

A person shall be disqualified for being chosen as, and for being, a member of a Panchayat

एक व्यक्ति को पंचायत के सदस्य के रूप में चुने जाने और होने के लिए अयोग्य ठहराया जाएगा

Disqualification provisions

ARTICLE - 243-F

→ Disqualifications for membership / सदस्यता के लिए अयोग्यताएँ

1-a

If he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned: Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years

यदि वह संबंधित राज्य के विधानमंडल के चुनावों के प्रयोजनों के लिए उस समय लागू किसी कानून द्वारा या उसके तहत अयोग्य घोषित किया गया है: बशर्त कि कोई भी व्यक्ति इस आधार पर अयोग्य नहीं ठहराया जाएगा कि वह पच्चीस वर्ष से कम उम्र का है, यदि वह इक्कीस वर्ष की आयु प्राप्त कर चुका है

Law made by State Legislature can cause disqualification

Min age: 21 yrs (cannot be disqualified if he is <25 yrs)

ARTICLE - 243-F

→ Disqualifications for membership / सदस्यता के लिए अयोग्यताएँ

1-b

If he is so disqualified by or under any law made by the Legislature of the State.

यदि वह राज्य के विधानमंडल द्वारा बनाए गए किसी कानून के तहत या उसके तहत अयोग्य है।

*** High Court:** Election disputes of MP/ MLAs

State Legislature

Has all powers of Panchayat

- Disqualification is decided by such authority as determined by State Legislature
- Election: State Election Commission

ARTICLE - 243-G

- Powers, authority and responsibilities of Panchayats
पंचायतों की शक्तियाँ, प्राधिकार एवं उत्तरदायित्व

Legislature of a State may, by law, endow the Panchayats with such powers and authority and may be necessary to enable them to function as institutions of self-government.

किसी राज्य का विधानमंडल, कानून द्वारा, पंचायतों को ऐसी शक्तियाँ और अधिकार प्रदान कर सकता है और उन्हें स्व-शासन की संस्थाओं के रूप में कार्य करने में सक्षम बनाने के लिए आवश्यक हो सकता है।

- State legislature give powers and responsibilities to Panchayat to manage their own affairs. This includes:-

- (a) Creating development plans for economic growth and social welfare of their communities
- (b) Running government schemes to implement programs related to areas like agriculture, education, housing, water supply, as listed in 11th Schedule of the Constitution

ARTICLE - 243-H

- Powers to impose taxes by, and Funds of, the Panchayats
पंचायतों द्वारा और उनकी निधियाँ पर कर लगाने की शक्तियाँ

- State legislature can authorise the Panchayat:-

To levy, collect and appropriate taxes, duties, tolls, and fees, grants-in-aid and establishment of funds for Panchayat to deposit and withdraw money, ensuring proper financial management

ARTICLE - 243-I

- Constitution of Finance Commission to review financial position
वित्तीय स्थिति की समीक्षा हेतु वित्त आयोग का गठन

The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor.

किसी राज्य का राज्यपाल, संविधान (तिहत्तरवाँ संशोधन) अधिनियम, 1992 के प्रारंभ होने से एक वर्ष के भीतर, और उसके बाद हर पाँचवें वर्ष की समाप्ति पर, वित्तीय स्थिति की समीक्षा के लिए एक वित्त आयोग का गठन करेगा। पंचायतों की नियुक्ति और राज्यपाल को सिफारिशें करना

Constitution of Finance Commission

Establishment by: **Governor** → Under 73rd CA, 1992
(Not binding) • Every 5 yrs

By Rojgar Revision

ARTICLE - 243-J

→ Audit of accounts of Panchayats / पंचायतों के खातों की लेखापरीक्षा

- The State Legislature ensures financial transparency and accountability of Panchayats by requiring them to maintain proper accounts and have them audited regularly

ARTICLE - 243-K

→ Elections to the Panchayats / पंचायतों के चुनाव

- (1) All elections of Panchayats conducted by: **State Election Commission**
The State Election Commissioner → Appointed by the Governor
- (2) The condition of service and tenure of office of State Election Commission → determined by Governor

ARTICLE - 243-L

→ Application to Union territories / केंद्र शासित प्रदेशों के लिए आवेदन

- Provisions of Part IX of the Constitution which deals with the Panchayats, shall apply to UTs with certain modification and exceptions

ARTICLE - 243-M

→ Part not to apply to certain areas / भाग का कतिपय क्षेत्रों पर लागू न होना

- (1) Art 243M exclude certain areas, like tribal regions, and some North-Eastern states, from the Panchayat system to respect their unique governance traditions, and local customs. However, provisions can be extended to these areas with necessary modification through specific laws

(2) Nothing in this Part shall apply to:-

(a) Nagaland, Meghalaya, Mizoram
(Panchayati Raj system do not exists)

(b) Hill areas of Manipur (District Councils exists here)

** Delhi is the only UT where provisions of the Panchayats are not applicable

By Rojgar Revision

ARTICLE - 243-N

→ Continuance of existing laws and Panchayats
मौजूदा कानूनों और पंचायतों का जारी रहना

- Art 243N ensures a smooth transition to the new Panchayati Raj system by allowing old laws to remain temporarily valid, while the State makes necessary changes to comply with updated constitutional framework

ARTICLE - 243-O

→ Bar to interference by courts in electoral matters
चुनावी मामलों में अदालतों के हस्तक्षेप पर रोक

(a) Courts cannot interfere with the process of defining Panchayat constituencies, or assigning seats

(b) Panchayat elections cannot be challenged casually; they can only be disputed through properly legal procedure after the elections

TRICK

1 Article 243 (Definitions)		Direct
1.1 Article 243A (Gram Sabha)	Assembly	
1.2 Article 243B (Constitution of Panchayats)	Kaise banegi Panchayat?	
1.3 Article 243C (Composition of Panchayats)	Composition	Indirect
1.4 Article 243D (Reservation of seats)	Dalit	Reservation
1.5 Article 243E (Duration of Panchayats, etc.)	Duration	5 yrs (letter E: 5)
1.6 Article 243F (Disqualifications for membership)	Fail	Disqualification
1.7 Article 243G (Powers, authority and responsibilities of Panchayats)		Goli khate power, responsibility
1.8 Article 243H (Powers to impose taxes by, and Funds of, the Panchayats)		House tax
1.9 Article 243I (Constitution of Finance Commission to review financial position)		Income — Finance Comm.
1.10 Article 243J (Audit of accounts of Panchayats)		
1.11 Article 243K (Elections to the Panchayats)		
1.12 Article 243L (Application to Union territories)	Lieutenant Governor in UTs	
1.13 Article 243M (Part not to apply to certain areas)	Modifications	
1.14 Article 243N (Continuance of existing laws and Panchayats)		
1.15 Article 243O (Bar to interference by courts in electoral matters)		

PESA (Panchayats (Extension to Scheduled Areas)) Act 1996

- Provisions of Part IX relating to Panchayat are not applicable to the 5th Scheduled Areas
- Parliament may extend these provisions to such areas subject to certain modifications

BHURIA COMMITTEE RECOMMENDATIONS

- It conferred absolute powers to Gram Sabha to ensure tribal self rule for people living in scheduled areas

Municipalities (Urban local government)

- Introduced through: 74th CA, 1992
- Part IXA, Art 243P-243ZG
- Under: 12th Schedule → 18 Functional subjects
- First Municipal Corporation was set up in Madras in 1687-88
- 1870: Lord Mayo presented resolution of financial decentralisation
- Ripon's resolution of 1882: Magna Carta of Local Self Government
 - He is known as "Father of Local Self Government"

There are 8 types of Urban Local Government:-

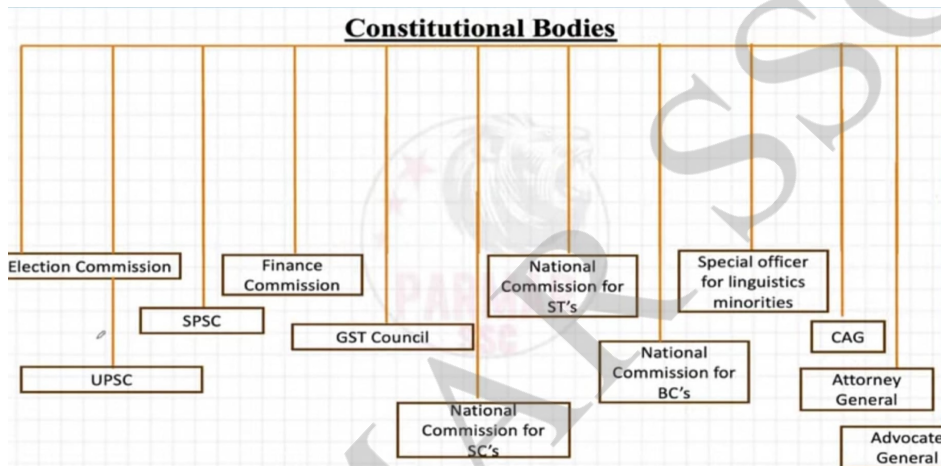
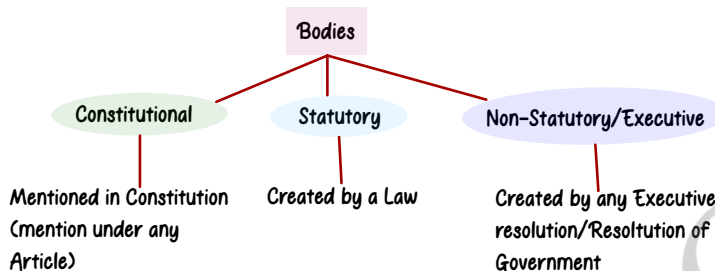
- Municipal Corporation
- Municipality
- Notified Area Committee
- Cantonment Board (Military)
- Township
- Town Area Committee
- Port Trust
- Special Purpose Agency

3 Types of Municipalities

- **Nagar Panchayat**: For a Transitional Area
 - **Municipal Council**: For a small Urban Area
 - **Municipal Corporation**: For a larger Urban Area
- } • All seats are filled through **direct elections**
 • **Elections conducted by**: State Election Commission

CONSTITUTIONAL BODIES





Election Commission of India

- **Article 324-329 (Part XV)**
- **Permanent and Independent body**
- Not concerned with the election of Panchayat & Municipality
- **Composition:** Chief Election Commissioner + 2 other Election Commissioners
- **CEC**
- **Appointment:** By President
- Serve till the pleasure of President
- **Term:** 6/65 years
- **Qualification:** Not prescribed by Constitution
- **Salary:** Same as SC judge
- **Removal:** Same as SC judge
- **Power and Functions**
- **Administrative**
- **Advisory**
- **Quasi judicial**

Election Commission of India (ECI)

- Originally: Single-membered body
- **61st Amendment Act, 1988**
- Voting age decreased: From 21 to 18
- **1989:** ECI became a multi-membered body
- **1st Chief Election Commissioner:** Sukumar Sen
- **Art 324:** Superintendence, direction, and control of elections to be vested in an Election
- **Art 325:** No person to be ineligible for inclusion in, or to claim to be included in, a special, electoral roll on grounds of religion, race, caste or sex
- **Art 326:** Representation of People Act
- **Art 327:** Power of Parliament to make provision with respect to elections to Legislatures
- **Article 328:** Power of Legislature of a State to make provisions with respect to elections to such Legislature
- **Article 329:** Bar to interference by courts in electoral matters

Union Public Service Commission (UPSC)

- **Article 315-323 (Part XIV)**
- **Independent Constitutional Body**
- Members**
 - **Composition:** In discretion of President
 - **Qualification:** 1/2 of members must held Govt. office for 10 years
 - **Term:** 6/65 years
 - **Recruitment:** All India Services & Central Services; Group A and B
 - **Known as "Watch Dog of Merit system in India"**
- Removal by President if,**
 - Bankrupt
 - Holding any office of Profit
 - Unfit
 - Misbehaviour (by President on recommendation of SC through a enquiry board)

• **Present UPSC chairman:** Preeti Sudan

Related Articles

- **Art 315:** Public Service Commission for the Union and for the States
- **Art 316:** Appointment and term of office of members
- **Art 317:** Removal and suspension of a member of PSC
- **Art 318:** how to make regulation as to condition of service of members and staff of the Commission
- **Art 319:** Prohibition as to the holding of office by members of commission on ceasing to be such members
- **Art 320:** Function of PSCs
- **Art 321:** Power to extend functions of PSCs
- **Art 322:** Expenses of PSCs
- **Art 323:** Reports of PSCs

State Public Service Commission (SPSC)

- **Article 315-323 (Part XIV)**
- **Independent Constitutional Body**
- Members**
 - **Composition:** In discretion of President
 - **Qualification:** 1/2 of members must held Govt. office for 10 years
 - **Term:** 6/62 years
 - **Recruitment:** State Services

Removal by President if,

- Bankrupt
- Holding any office of Profit
- Unfit
- Misbehaviour (by President on recommendation of SC through a enquiry board)

Finance Commission

Article 280

- Quasi Judicial Body (holds the summoning power of a Civil Courts)

Composition: Chairman + 4 other members

- **Constituted by:** President (every 5 years)
- **Qualification**



Chairman

- **Experience in:** Public Affairs

- The members are eligible for reappointment

4 others

- A judge of HC/Qualified to appoint HC judge
- **Special knowledge of:** Finance & Accounts of Government and Economics
- **Experience in:** Financial Matter & Administration

Related Articles

- **Art 280:** Finance Commission
- **Art 281:** Recommendations of Finance Commission

- It makes recommendation to the President on the Net Proceeds of taxes to be shared between Centre & State (not binding on President)

16th Finance Commission

- **Chairman:** Arvind Panagariya
- **Full time members**
 - **1st Finance Commission**
 - 1951
 - **Chairman:** K. C. Neogy
 - **14th FC:** Y. V. Reddy
 - **15th FC:** N. K. Singh
- Shri. Ajay Narayan Jha
- Smt. Annie George Mathew
- Dr. Manoj Panda
- **Part time members**
 - Dr. Soumya Kanti Ghosh

GST Council

- **Added by:** 101st CAA, 2016
- **New Article inserted:** Art 279-A
- **Union Revenue Secretary** acts as the ex-officio Secretary to the Council

Composition

Joint Forum of Centre and State

Chairperson: Union Finance Minister

National Commission for SC's and ST's

- **Article 338 (SC) & 338A (ST)**
- **Constitutional body**
- **Consists of:** Chairperson + Vice Chairperson + 3 other members (All appointed by President)

89th CAA, 2003



NCSC (Art 338)

NCST (Art 338A)

History

Art 338: Special Officer for SC & ST



65th CA: Special Officer to Commission



89th CAA, 2003

National Commission for Backward Classes (BC's)

- **Established in:** 1993
- **Originally:** A statutory body

History

Mandal Case, 1992

- **SC directed Central government** to constitute a permanent statutory body for BC's

102nd Amendment Act of 2018 conferred the constitutional status

The Amendment inserted a new Article 338B in Constitution

Special Officer for Linguistic Minority

- **7th CAA, 1956:** Conferred a Constitutional status
- **Inserted:** A new Article 350B (Part XVII)
- **Special Officer for Linguistic Minorities**
- **Appointed by:** President

Article 350A: Primary level education in Mother tongue

Comptroller and Auditor General of India (CAG)

- **Article 148**
- **Head of:** Indian Audit and Accounts Department
- **Created in:** 1919 (Statutory body)
- **Single-membered body**
- **Appointed by:** President
- **Term:** 6/65 years
- **Removal:** By President (same manner as Judge of SC)
- **CAG responsibilities**
- **Compile and maintains the Accounts of State Government** (not Central Government)
- **Known as "Guardian of 'Public Purse'"**
- **B. R. Ambedkar** mentioned it as "Most important Officer under GOI"

- **1st CAG:** V. Narahari Rao
- **Present:** K Sanjay Murthy

Related Articles

- **148:** Comptroller and Auditor General of India (CAG)
- **149:** Duties and powers of CAG
- **150:** Form of accounts of the Union and of these States
- **151:** Audit reports → Submission to President

Attorney General

- **Article 76**
- **Highest law officer in country**
- **Appointed by:** President
- **Term:** Not fixed by Constitution
- **Qualified to be a SC Judge**
- **Gives advice to Government in legal matters referred to him by President**
- **Post of Solicitor General:** Created to assist Attorney General

It is not a Constitutional body

Advocate General of the State

- **Article 165**
- **Appointed by:** Governor
- **Term:** Not fixed by Constitution
- **Removal:** By Governor (any time)
- **Qualified to be HC Judge**
- Gives advice to Government in legal matters referred to him by Governor

Statutory Bodies (Created through law)

National Human Rights Commission (NHRC)

- **Established in:** 1993 under Protection of Human Rights Act, 1993
- **Members:** Chairman (retired CJI/Judge of SC) + 5 Full time members
- **Appointed by:** President (on recommendation of 6 membered committee)
- Not eligible for re-appointment under Central/State Govt.
- **Tenure:** 3/70 years
- "It is watchdog of Human Rights in the country"
- Present chairman: Vijiya Bharathi Sayani

State Human Rights Commission

- **Setup in:** 1993 under Protection of Human Rights Act, 1993
- **Members:** Chairman (retired CJI/Judge of HC) + 5 Full time members
- **Appointed by:** Governor (on recommendation of 6 membered committee)
- **Removal by:** President
- **Tenure:** 3/70 years

Chief Information Commissioner

- **Setup in:** 2005 (by Central Govt.)  Heeralal Samariya
- **Constituted under:** Right to Information Act (2005)
- **Tenure:** 5/65 years
- Not eligible for re-appointment under Central/State Govt.

Central Vigilance Commission (CVC)

- **Setup in:** 1964 (by an Executive Resolution)
- **Establishment was recommended by:** Santhanam Committee
- **Statutory Status in:** 2003 (Originally: Neither a Constitutional nor a Statutory status)
- **Appointment and Removal:** President

Central Bureau of Investigation (CBI)

- **Executive body**
- **Setup in:** 1963 by an Executive Resolution



- Derives its powers from Delhi Police Establishment Act, 1946

National Institution for Transforming India (NITI AAYOG)

- **Executive body**
- **Created on:** 1st Jan 2015 replacing Planning Commission
- **Chairman:** PM
- **Governing Council:** CM of all states + Lieutenant Governor of UTs
- **Appointed by:** PM
- **CEO:** BVR Subrahmanyam
- **Vice Chairman:** Suman K Bery
- Provides recommendations to the Government

Law Commission

Executive Body

1st Law Commission: 1955

1st Law Commissioner: M. C. Setalvad (Post Independence)

1st Law Commissioners: Macaulay (Pre Independence)

1834: Law Commission

Lokpal and Lokayukta

- **Statutory body**
- Lokpal and Lokayukta Act 2013
- **Lokpal:** for Centre
- **Lokayukta:** for State

• Lokpal: Chairperson + max of 8 other members



Retired CJI/SC
Judge



50% (Judicial
members)

+

50% (SC, ST, OBC,
Minority, Women
members)

Current Chairperson

• Ajay Manikrao
Khanwilkar

1st Chairperson

• Pinaki Chandra Ghose